

# Public Movement for 'Recovery of India's Stolen Assets from Foreign Countries'

- Sunil Kumar

## ***Introduction***

India Rejuvenation Initiative (IRI) is organizing this National Workshop with a view to forge a Public Movement for 'Recovery of India's Stolen Assets from Foreign Countries'. Recent events like the fraud perpetrated by Shri B. Ramalingam Raju, Founder of Satyam Computers and the case of Pune businessman Hassan Ali Khan, who reportedly holds \$8 billion (about Rs.36000 crore) in a single UBS AG Zurich Bank Account in Switzerland and who has been served a show cause notice by the Enforcement Directorate, have only served to attract attention to the problem, which is like the proverbial tip of the iceberg!

## ***Illicit Money***

At the very outset, it will be pertinent to note that **illicit or corrupt money** is money that is illegally earned, illegally transferred or illegally utilized. If any law is broken in the country of its origin, its movement or its use, then such money can be safely termed as illicit money.

## ***Magnitude of the Problem***

It has been reported that Indian Nationals have deposited \$1456 billion or \$ 1.45 trillion (Rs.65.52 lakh crore) in Swiss Banks as per the Swiss Banking Association Report, 2006. The magnitude of the problem can be understood only when we remember that the size of Government of India's Annual Budget is only about Rs.7.50 lakh crore and so the stolen assets stashed in secret Swiss Bank Accounts alone can fund the country's budget for at least nine years! It will also be pertinent to note here that India's total GDP is just about \$1 trillion.

## ***International Problem***

This problem is not peculiar to India alone. In March 2005, the *Tax Justice Network (TJN)* published a research finding demonstrating that \$11.5 trillion of personal wealth was held offshore by rich individuals across the globe. The findings estimated that a large proportion of this wealth was managed from some 70 tax havens. It is estimated that one percent of the world's population holds more than 57 percent of total global wealth, routing it invariably through these tax havens.

According to estimates prepared by Mr. Raymond W. Baker in his book '*Capitalism's Achilles Heel*', cross border flow of money from criminal activity, corruption and tax evasion is estimated to range between one and 1.6 trillion dollars per year of which more than half originates

from developing countries. A World Bank Report captioned '*Stolen Asset Recovery Initiative: Challenges, Opportunities, and Action Plan*' mentions that corrupt money associated with bribes received by public officials from developing and transition countries is estimated at \$20 billion to \$40 billion per year - a figure equivalent to 20 to 40 percent of flows of official development assistance.

Mr. Raymond Baker, a world authority on corruption and money-laundering, has estimated that the cross-border component of bribery and theft by government officials is the smallest part of "dirty money", or only about three percent of the global total. The criminal component constitutes about 30 to 35 percent, while the commercially tax-evading component, which is driven primarily by falsified pricing in imports and exports, is by far the largest, at some 60 to 65 percent of the global total. The "pinstripe infrastructure" of offshore bankers, lawyers and accountants, who welcome these flows of "dirty money" with open arms, are a central part of the corruption problem.

It is thus clear that there are several dimensions to the problem and concerted action is required to address the problem. However, unfortunately not much attention has been focused on this issue either by Governments, political class, or the media.

### ***Who are the thieves?***

Thefts, like the one which we are addressing today, are not committed by the poor and the deprived but largely by the 'rich and the powerful'. The who's who of those operating from tax havens spread across the globe include powerful dictators, politicians, industrialists, bureaucrats, drug cartel operators etc. Tax evasion is largely resorted to by the wealthy sections of society and Mr. Raymond Baker has described this phenomenon as the 'Revolt of the Elites'. In his view, the elites avoid and evade their responsibility to the society that sustains them and this has two main components just like the more traditional forms of corruption: first, the elites involved remove themselves from the carrying costs involved in maintaining healthy societies; and, second, they remain actively involved in the democratic (or other) process of government.

A Study by Centre for Monitoring of Indian Economy (CMIE) found that each parliamentary poll generates between \$10.19 billion and \$11.33 billion (about Rs.50 - 55000 crore) of black money. On an average, any serious candidate in the Indian electoral process spends at least three to five times more than the expenditure limit prescribed by the Election Commission! The source of unaccounted funds of political parties, candidates is anybody's guess.

### ***How does the theft occur?***

Broadly, there are three forms in which illicit financial flow across borders takes place:

- the proceeds of bribery and theft by public servants such as kickbacks in defence deals - Bofors, HDW submarine etc.
- the proceeds of criminal activities such as drug & human trafficking, smuggling of arms, extortion, fraud, embezzlement, counterfeiting
- the proceeds of tax avoidance driven primarily by falsified pricing in imports and exports, insider trading, market rigging etc.

To again quote Mr. Raymond Baker, an elaborate illicit financial structure has been created over the years and these include, inter alia, about 72 tax havens around the world, offshore secrecy jurisdictions, disguised corporations with flee clauses, anonymous trust accounts, fake foundations, false documentation, falsified pricing, money laundering techniques and deliberate holes left in Western laws which facilitate the movement of illicit money through the illicit financial structure and ultimately into western economies. This structure was developed originally to facilitate movement of flight capital and tax-evading proceeds from one country to another and later on came to be used by drug lords in the 1960s and 70s and later by other racketeers and now by terrorist organizations to spread terror around the world! It may be pertinent to note at this point that the Al Qaeda received about \$300 million in the decade prior to 9/11 through the illicit financial structure. The same route helped A.Q.Khan, the renegade Pakistani nuclear scientist, to buy and sell nuclear materials across several countries. Today various terrorist groups operating in India are also receiving funds through the same route. India's National Security Advisor, Shri M.K.Narayanan drew the attention to this disturbing aspect of terror funding when he mentioned early last year that country's stock exchanges could possibly be receiving such tainted funds.

### ***Where are the stolen assets kept?***

As mentioned above, generally the stolen assets are kept in secret Bank Accounts in about 72 Tax Havens around the world. The major tax haven economies are Switzerland, Singapore, New Zealand, Netherlands, United Kingdom, Hongkong, Germany, Ireland, Belgium, USA, Macao, Malta, UAE etc. Illicit money is also invested in real estate in Europe, USA, Malaysia, Singapore, UAE etc.

What makes the Tax Havens such an attractive proposition for 'International Crooks'? First, strong Bank secrecy laws which ensure that information cannot be obtained for official purposes such as tax collection. Second, secrecy of legal entities which bar obtaining information about companies, corporations, trusts, foundations or other legal entities, such as beneficial

owner etc. Finally, zero or low tax rate offered to non-residents or foreign owned legal entities act as the icing on the cake.

### ***The Money Laundering Process***

As has already been mentioned earlier, illicit money is ***raised*** through corruption and bribery, fraud like the one perpetrated in the Satyam case, organized crime, drug & human trafficking, terrorism etc. Next step is ***placement*** which is the process of separating the illicit money from their illegal source and placing them into one or more domestic or foreign financial institutions. This involves initial introduction of criminal proceeds into the stream of commerce and is perhaps the most vulnerable stage of money laundering process. In this regard, people may recall the Jharkhand Mukti Morcha bribery case of 1994 where the lid was exposed when, in their naivety, effort was made to place the bribe money in Public Sector Banks in New Delhi! The third stage is ***layering*** which is the process of separating criminal proceeds from their source by using layers of financial transactions designed to hide the audit trail and provide anonymity. This may involve movement of money from different accounts to different countries and is increasingly difficult to detect. The final stage in the money laundering process is called ***integration*** when the illicit money, after a tumultuous journey through different accounts in different countries, returns to the place of origin and the owner, that is the thief, but in the guise of legitimate wealth! Money coming back as FDI through the Mauritius route is an example.

A Study quoted in a World Bank Report has revealed that in nearly 25 percent cases, 'wire transfers' were used as the laundering mechanism and in 13 percent cases 'Front companies' were the preferred option of these international crooks! The same study has also revealed that Drug lords tend to use the full spectrum of alternatives while those engaged in bribery and corruption tend to rely on 'wire transfers' and use fewer types of laundering mechanisms. Maybe this is because public servants are still novices in the **International Crook Hall of Fame!**

### ***Factors facilitating Theft of Public Assets***

Worldwide experience indicates that the following factors facilitate theft of public assets:

- i. Lack of transparency
- ii. Low Public Accountability
- iii. Lack of strong 'political will' to undertake asset recovery task
- iv. Lack of effective cooperation and goodwill of countries where stolen assets are kept

More often than not it has been experienced that theft of public assets does not get the attention that it deserves.

### ***Recovery of Stolen Assets***

So far efforts to recover country's stolen assets have met with limited success. There are only three limited success stories. Nigeria, an oil-rich African country, was able to recover \$500 million in 2005 from Switzerland as part of assets stolen by the dictator Sani Abacha which had been kept in Swiss Banks. Between 2001- 06, Peru could recover \$180 million and Phillipines received \$624 million in February 2004 from funds looted by Marcos. Considering the vast sums that have been stolen from developing countries and stashed in secret Bank Accounts, the money recovered is peanuts, for sure! However, it is a welcome beginning nevertheless.

The international community is slowly waking up to the fact that drug kingpins, criminal syndicate heads and terrorist masterminds are increasingly utilizing the web of illicit financial structure to undermine the very existence of western countries. Hence, some steps have been taken to facilitate recovery of a country's stolen assets. These include the passage of UN Convention against Corruption (UNCAC) in 2003. So far, UNCAC has been signed by 140 countries including India and ratified by 125 countries, excluding India. This Convention has come into force on December 14, 2005.

### ***UN Convention against Corruption***

Here I will like to briefly dwell on the main features of the UN Convention against Corruption as we feel that India must sign this convention at the earliest. A similar demand has also been reportedly made by the Central Vigilance Commissioner.

UNCAC rightly focuses on **prevention** of corruption. Wide ranging measures directed at both public and private sectors, including the establishment of anti-corruption bodies and enhanced transparency in the financing of elections, citizen's rights and involvement of civil society in raising public awareness of corruption. It also requires countries to **criminalize** a wide range of acts including bribery, embezzlement of public funds, money laundering and obstruction of justice. It also recommends that other acts such as trading in influence be also treated as a criminal act. Furthermore, UNCAC seeks to promote **cooperation** between law enforcement agencies, protection of witnesses and removal of bank secrecy as a barrier for prosecution. It provides for extradition of offenders and mutual legal assistance in gathering and transferring evidence. Signatory countries are obliged to help trace, freeze and confiscate proceeds of corruption. Finally, Article 51 & 57 of UNCAC also makes **asset recovery** a fundamental principle and countries are obliged to offer the widest range of cooperation and assistance in this regard.

However, a notable weakness of this potentially significant step is that half of G-8 countries and countries hosting some of the most important financial centres / tax havens have not ratified UNCAC. There is also no effective monitoring mechanism for UNCAC. The World Bank and the UN Office on Drugs and Crime (UNODC) have jointly launched the **Stolen Asset Recovery Initiative** in April, 2007. Through this initiative, developing countries are to be helped in recovering their stolen assets.

### ***Indian Experience***

As stated at the very outset, illicit money stashed in secret Swiss Bank Accounts alone by Indian nationals may be more than Rs.65 lakh crore. But the country has not made any sincere effort to recover its stolen assets. Action taken, to date, by Indian authorities have been summarily dismissed by Swiss Bank Authorities as a 'name fishing expedition' wherein Indian authorities could be permitted to trawl through bank accounts. They have also reportedly said that India could not "simply throw its telephone book at Switzerland and ask if any of these people have a bank account here". This also confirms our worst fears that the entire so called enquiry by Government of India is a subtle way of buying time and saving the real culprits. This happened in the Bofors enquiry before and is again happening now. Bofors investigation went on for more than a decade and finally had to be closed with India reportedly spending more on its investigation than the money which was reportedly paid as kickbacks! It failed, as Shri Bhure Lal, the then Director Enforcement, who also had to bear the brunt of vicious attacks by the establishment for his efforts, will testify, was largely due to lack of 'political will'. It is strange that despite Government of India being seized of the matter since 2008, it could not work on specific cases so far and the Finance Minister has reportedly stated on 24<sup>th</sup> August, 2009 that India is not interested in "fishing expeditions" on money stashed in Swiss banks by Indian citizens and that it would work on specific cases.

Reports appearing in the Press also suggest that the volume of high value transactions has gone up from Rs.27 lakh crore in 2006-07 to Rs.55.7 lakh crore in 2007-08 but 30 percent, or roughly 1 million of the 3.3 million high value transactions, did not cite PAN; 75 percent of people selling property with a declared value of Rs.30 lakh or more did not mention their PAN; 66 percent of those with cash deposits of Rs.10 lakh or more in savings account have not cited PAN to bank and over 50 percent of credit card deals of Rs.2 lakh or more are done without PAN even when the use of PAN has been made mandatory for all high value transactions. It has been reported that of the 3100 transactions of Rs.5 lakh or more in RBI Bonds, aggregating to Rs.3.52 lakh crore, about 10 percent were carried out without mentioning PAN. It emerges that Banks are also lax in checking the correctness of the Personal Account Numbers (PAN) mentioned in the documents and reporting 'suspicious' transactions to the Authorities. Further, Income tax

authorities are also unable to trace the transaction back to beneficiary as the PAN provided turned out to be fake or there were persons with multiple PANs.

It is obvious that 'tax evaders' are not only the rich and mighty who are adept at fully utilizing the loop holes left in the tax laws and rules but also believe that they can get away with any violation of laws and rules. The fact that tax evasion has been made a 'civil offence' under FEMA and is not regarded as a 'criminal offence' in India also benefits the tax evaders and those who are robbing the country of its assets as they can get away by paying a penalty in the unlikely event of their getting caught.

We are also witnessing how anti-corruption agencies like the CBI, CVC, Vigilance agencies in the States have been systematically stymied over the years. We have the sorry spectacle of the Supreme Court rebuking CBI for taking diametrically opposing stands in disproportionate asset cases just to suit political expediency! Institutions like those of Lokayukta have been made 'tooth-less tigers'. Protection to whistleblowers remains a distant dream. The path breaking Right to Information Act is still in its infancy and needs careful nurturing. The details of assets possessed by public servants are still not placed in the public domain. Today, when Supreme Court and High Court Judges have decided to place their property details on the web site in the public domain, there appears to be no valid reason why those of public servants cannot be placed on the web site and made available under the RTI Act. Zero tolerance of corruption remains a pious slogan and no sincere effort has been made to punish the 'high and mighty' possessing assets disproportionate to their known sources of income.

### ***Steps required***

Today there is growing realization that fighting corruption can no longer be postponed for a later date. It is well recognized that corruption impoverishes nations, undermines democratic institutions and the rule of law and facilitates international crime and terrorism. Further, it is the poor who bear the brunt of corruption as the corrupt ruling elites swindle public funds to the tune of trillions of dollars every year and thereby deprive tax paying citizens of education, health services, basic infrastructure and functioning public services.

IRI is of the view that the following steps are urgently required to be taken if the country is to make a sincere attempt to recover the country's stolen assets and punish the thieves:-

- i. Focus public attention on loot of public funds over the years
- ii. Publish the names of individuals holding assets disproportionate to their known sources of income - Public exposure of corruption and the corrupt
- iii. Fry the big fish - hand out exemplary punishment to the 'rich and powerful' involved in corruption

- iv. Make offences under FEMA 'criminal offence' and not just 'civil offence'
- v. Enact Corrupt Public Servants (Forfeiture of Property) Act
- vi. Prescribe procedure for confiscation of benami property under Section 8 of the Benami Transaction Prohibition Act (BTPA),1988
- vii. Ratify UN Convention against Corruption (UNCAC)
- viii. Set up Integrity Commission to regularly probe assets of 'top public servants'
- ix. All investigative arms of Government like CBI, Income Tax, Directorate of Revenue Intelligence, Intelligence Bureau, State Vigilance Departments to coordinate and share details
- x. Award exemplary punishment after fast-track trial of corruption cases
- xi. Launch a '**strong public movement**' for recovery of country's stolen assets

### **Conclusion**

To conclude, let us again put the theme of this workshop in perspective. Simply put, recovery of country's stolen assets from Swiss Banks alone could help wipe off India's total external debt of \$222 billion in one stroke. There will still be plenty left to meet the full requirement of world class social and physical infrastructure - schools, universities, hospitals, roads, railway, airports, ports, power, drinking water, irrigation, etc. It can fully meet cost of urban renewal and costs of relocating and rebuilding six lakh modern villages.

But will this remain a dream or a mirage? The answer is yes if we continue to function the way we have functioned till date. We need to usher in 'change' and towards that end we will need to stand up and be counted. We need to deliberate today on the contours of a strong Public Movement. What steps should be taken to help recover India's stolen assets? How can we focus public attention on the subject? How can loot of public funds be reduced, if not stopped altogether? We need to find answers to these questions quickly as even national security of the country is at stake.

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References:

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2. Mirror, Mirror on the Wall, Who's the Most Corrupt of All? - John Christensen, Tax Justice Network
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7. United Nations Convention Against Corruption
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9. Identifying Tax Havens and Offshore Finance Centres - Tax Justice Network
10. Mystery Millionaire - By Ritu Sarin, Mohan Kumar & Chandan Haygunde . Published in The Sunday Express, January 25, 2009
11. Compendium of International Legal Instruments Against Corruption - United Nations Office on Drugs and Crime

# United Nations Convention against Corruption

**Entry into force:** 14 December 2005, in accordance with article 68 (1) which reads as follows:

"1. This Convention shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the thirtieth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Convention enters into force pursuant to paragraph 1 of this article, whichever is later."

**Status:** Signatories: 140 , Parties: 125.

**Text:** Doc. A/58/422.

**Note:** The Convention was adopted by the General Assembly of the United Nations on 31 October 2003 at United Nations Headquarters in New York. It shall be open to all States for signature from 9 to 11 December 2003 in Merida, Mexico, and thereafter at United Nations Headquarters in New York until 9 December 2005, in accordance with article 67 (1) of the Convention. The Convention shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Convention in accordance with its article 67 (2).

**Status of ratification of UN Convention against Corruption**

<b>Country</b>	<b>Signature</b>	<b>Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)</b>
Afghanistan	20 Feb 2004	25 Aug 2008
Albania	18 Dec 2003	25 May 2006
Algeria	9 Dec 2003	25 Aug 2004
Angola	10 Dec 2003	29 Aug 2006
Antigua and Barbuda		21 Jun 2006 a
Argentina	10 Dec 2003	28 Aug 2006
Armenia	19 May 2005	8 Mar 2007
Australia	9 Dec 2003	7 Dec 2005
Austria	10 Dec 2003	11 Jan 2006
Azerbaijan	27 Feb 2004	1 Nov 2005
Bahamas		10 Jan 2008 a
Bahrain	8 Feb 2005	
Bangladesh		27 Feb 2007 a
Barbados	10 Dec 2003	
Belarus	28 Apr 2004	17 Feb 2005
Belgium	10 Dec 2003	
Benin	10 Dec 2003	14 Oct 2004
Bhutan	15 Sep 2005	
Bolivia	9 Dec 2003	5 Dec 2005
Bosnia and Herzegovina	16 Sep 2005	26 Oct 2006
Brazil	9 Dec 2003	15 Jun 2005
Brunei Darussalam	11 Dec 2003	
Bulgaria	10 Dec 2003	20 Sep 2006

Burkina Faso	10 Dec 2003	10 Oct 2006
Burundi		10 Mar 2006 a
Cambodia		5 Sep 2007 a
Cameroon	10 Dec 2003	6 Feb 2006
Canada	21 May 2004	2 Oct 2007
Cape Verde	9 Dec 2003	23 April 2008
Central African Republic	11 Feb 2004	6 Oct 2006
Chile	11 Dec 2003	13 Sep 2006
China <sup>1</sup>	10 Dec 2003	13 Jan 2006
Colombia	10 Dec 2003	27 Oct 2006
Comoros	10 Dec 2003	
Congo		13 Jul 2006 a
Costa Rica	10 Dec 2003	21 Mar 2007
Côte d'Ivoire	10 Dec 2003	
Croatia	10 Dec 2003	24 Apr 2005
Cuba	9 Dec 2005	9 Feb 2007
Cyprus	9 Dec 2003	
Czech Republic	22 Apr 2005	
Denmark <sup>2</sup>	10 Dec 2003	26 Dec 2006
Djibouti	17 Jun 2004	20 Apr 2005
Dominican Republic	10 Dec 2003	26 Oct 2006
Ecuador	10 Dec 2003	15 Sep 2005
Egypt	9 Dec 2003	25 Feb 2005
El Salvador	10 Dec 2003	1 Jul 2004
Ethiopia	10 Dec 2003	26 Nov 2007
European Community	15 Sep 2005	
Fiji		14 May 2008 a
Finland	9 Dec 2003	20 Jun 2006 A
France	9 Dec 2003	11 Jul 2005

Gabon	10 Dec 2003	1 Oct 2007
Germany	9 Dec 2003	
Ghana	9 Dec 2004	27 Jun 2007
Greece	10 Dec 2003	17 Sep 2008
Guatemala	9 Dec 2003	3 Nov 2006
Guinea	15 Jul 2005	
Guinea-Bissau		10 Sep 2007 a
Guyana		16 Apr 2008 a
Haiti	10 Dec 2003	
Honduras	17 May 2004	23 May 2005
Hungary	10 Dec 2003	19 Apr 2005
India	9 Dec 2005	
Indonesia	18 Dec 2003	19 Sep 2006
Iran (Islamic Republic of)	9 Dec 2003	
Iraq		17 Mar 2008 a
Ireland	9 Dec 2003	
Israel	29 Nov 2005	
Italy	9 Dec 2003	
Jamaica	16 Sep 2005	5 Mar 2008
Japan	9 Dec 2003	
Jordan	9 Dec 2003	24 Feb 2005
Kazakhstan		18 Jun 2008 a
Kenya	9 Dec 2003	9 Dec 2003
Kuwait	9 Dec 2003	16 Feb 2007
Kyrgyzstan	10 Dec 2003	16 Sep 2005
Lao People's Democratic Republic	10 Dec 2003	
Latvia	19 May 2005	4 Jan 2006
Lesotho	16 Sep 2005	16 Sep 2005

Liberia		16 Sep 2005 a
Libyan Arab Jamahiriya	23 Dec 2003	7 Jun 2005
Liechtenstein	10 Dec 2003	
Lithuania	10 Dec 2003	21 Dec 2006
Luxembourg	10 Dec 2003	6 Nov 2007
Madagascar	10 Dec 2003	22 Sep 2004
Malawi	21 Sep 2004	4 Dec 2007
Malaysia	9 Dec 2003	24 Sep 2008
Maldives		22 Mar 2007 a
Mali	9 Dec 2003	18 Apr 2008
Malta	12 May 2005	11 Apr 2008
Mauritania		25 Oct 2006 a
Mauritius	9 Dec 2003	15 Dec 2004
Mexico	9 Dec 2003	20 Jul 2004
Moldova	28 Sep 2004	1 Oct 2007
Mongolia	29 Apr 2005	11 Jan 2006
Montenegro <sup>3</sup>		23 Oct 2006 d
Morocco	9 Dec 2003	9 May 2007
Mozambique	25 May 2004	9 Apr 2008
Myanmar	2 Dec 2005	
Namibia	9 Dec 2003	3 Aug 2004
Nepal	10 Dec 2003	
Netherlands <sup>4</sup>	10 Dec 2003	31 Oct 2006 A
New Zealand	10 Dec 2003	
Nicaragua	10 Dec 2003	15 Feb 2006
Niger		11 Aug 2008 a
Nigeria	9 Dec 2003	14 Dec 2004
Norway	9 Dec 2003	29 Jun 2006

Pakistan	9 Dec 2003	31 Aug 2007
Panama	10 Dec 2003	23 Sep 2005
Papua New Guinea	22 Dec 2004	16 Jul 2007
Paraguay	9 Dec 2003	1 Jun 2005
Peru	10 Dec 2003	16 Nov 2004
Philippines	9 Dec 2003	8 Nov 2006
Poland	10 Dec 2003	15 Sep 2006
Portugal	11 Dec 2003	28 Sep 2007
Qatar	1 Dec 2005	30 Jan 2007
Republic of Korea	10 Dec 2003	27 Mar 2008
Romania	9 Dec 2003	2 Nov 2004
Russian Federation	9 Dec 2003	9 May 2006
Rwanda	30 Nov 2004	4 Oct 2006
Sao Tome and Principe	8 Dec 2005	12 Apr 2006
Saudi Arabia	9 Jan 2004	
Senegal	9 Dec 2003	16 Nov 2005
Serbia	11 Dec 2003	20 Dec 2005
Seychelles	27 Feb 2004	16 Mar 2006
Sierra Leone	9 Dec 2003	30 Sep 2004
Singapore	11 Nov 2005	
Slovakia	9 Dec 2003	1 Jun 2006
Slovenia		1 Apr 2008 a
South Africa	9 Dec 2003	22 Nov 2004
Spain	16 Sep 2005	19 Jun 2006
Sri Lanka	15 Mar 2004	31 Mar 2004
Sudan	14 Jan 2005	
Swaziland	15 Sep 2005	
Sweden	9 Dec 2003	25 Sep 2007
Switzerland	10 Dec 2003	

Syrian Arab Republic	9 Dec 2003	
Tajikistan		25 Sep 2006 a
Thailand	9 Dec 2003	
The Former Yugoslav Republic of Macedonia	18 Aug 2005	13 Apr 2007
Timor-Leste	10 Dec 2003	
Togo	10 Dec 2003	6 Jul 2005
Trinidad and Tobago	11 Dec 2003	31 May 2006
Tunisia	30 Mar 2004	23 Sep 2008
Turkey	10 Dec 2003	9 Nov 2006
Turkmenistan		28 Mar 2005 a
Uganda	9 Dec 2003	9 Sep 2004
Ukraine	11 Dec 2003	
United Arab Emirates	10 Aug 2005	22 Feb 2006
United Kingdom of Great Britain and Northern Ireland <sup>5</sup>	9 Dec 2003	9 Feb 2006
United Republic of Tanzania	9 Dec 2003	25 May 2005
United States of America	9 Dec 2003	30 Oct 2006
Uruguay	9 Dec 2003	10 Jan 2007
Uzbekistan		29 Jul 2008 a
Venezuela (Bolivarian Republic of)	10 Dec 2003	
Viet Nam	10 Dec 2003	
Yemen	11 Dec 2003	7 Nov 2005
Zambia	11 Dec 2003	7 Dec 2007
Zimbabwe	20 Feb 2004	8 Mar 2007

### Declarations and Reservations

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It is also obvious that, so far, Government of India has shown luck-lustre attitude in tackling corruption. Action taken to date by Indian authorities have been summarily dismissed by Swiss Bank Authorities as a 'name fishing expedition' wherein Indian authorities could be permitted to trawl through bank accounts. They have also reportedly said that India could not "simply throw its telephone book at Switzerland and ask if any of these people have a bank account here". This also confirms our worst fears that the entire so called enquiry by Government of India is a subtle way of buying time and saving the real culprits. This happened in the Bofors enquiry before and is again happening now. It is strange that despite Government being seized of the matter since 2008, it could not work on specific cases so far and the Finance Minister has reportedly stated on 24<sup>th</sup> August, 2009 that India is not interested in "fishing expeditions" on money stashed in Swiss banks by Indian citizens and that it would work on specific cases.

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## Politically Exposed Persons

<i>Sani Abacha</i>	Former military ruler of Nigeria between 1993 and 1998, estimated to have embezzled \$2 to \$5 billion through his years as defense minister and later dictator.
<i>Yassar Arafat</i>	Leader of the Palestine Liberation Organization, Arafat's personal wealth was estimated to be valued at \$1.3 billion in 2002. Much of this money allegedly came from diverted Palestinian tax revenues.
<i>Jean Bertrand Aristide</i>	Former president of Haiti between 1994 to 1996 and 2001 to 2004, Aristide's regime has been accused on many fronts of kickbacks, illicit transfers and secret shell companies.
<i>Benazir Bhutto</i>	Former prime minister of Pakistan, Bhutto and her husband were accused of taking in hundreds of millions of dollars in "commissions" on government contracts and tenders.
<i>Kim Jong-il</i>	Military leader of North Korea since 1994, Kim Jong-il presides over a regime accused of engaging in money laundering, counterfeiting and other financial crimes.
<i>Ferdinand Marcos</i>	President of the Philippines between 1965 to 1986, allegedly plundered between \$5 to \$10 billion during his rule.
<i>Slobodan Milošević</i>	President of Serbia and later Federal Republic of Yugoslavia between 1989 to 2000, Milošević allegedly used funds from customs revenues and the Central Bank to fund black market activities and enrich paramilitary groups involved in armed conflicts throughout the Balkans.
<i>Agusto Pinochet</i>	President of Chile from 1975 to 1990, a US Senate investigation revealed that Pinochet had used a network of over 125 securities and bank accounts to move millions of dollars out of Chile.
<i>Raul Salinas</i>	The brother of former Mexican president, Carlos Salinas, Raul Salinas amassed hundreds of millions of dollars while in offshore accounts.
<i>Mobutu Sese Seko</i>	Having consolidated power in Zaire by 1965, Mobutu Seko ruled over a troubled regime until overthrown 1997. He was estimated to have pocketed \$5 billion through his long rule.
<i>Mohamed Suharto</i>	President of Indonesia from 1967 to 1998, estimated to have taken between \$15 to \$35 billion from government coffers during his long military rule.

## **Draft Resolution that could be adopted in the Proposed National Workshop on 14.9.2009**

Research undertaken by various agencies over the years have conclusively established that there is considerable outflow of public money from India and vast sums running into billions, if not trillions of dollars, are stashed away in secret accounts of Indian nationals in foreign banks located in about 70 tax havens spread across the world. It is estimated that illegal money of India amounting to trillions of dollars is parked in various tax havens like Antigua, Switzerland, Bahamas, Liechtenstein, Isle of Man, St. Kitts etc. The estimate of Indian money in tax havens varies from 500 billion USD to 1.4 trillion USD. This is more than the GDP of India!

After day long deliberations in the first National Workshop of its kind organized by India Rejuvenation Initiative (IRI), it has been resolved that a vibrant public movement should be built to focus public attention on the systemic loot of public funds over the years and the need to recover India's stolen assets.

Towards this end, it has been resolved that Government of India should take the following steps:

- xii. **Publish the names of individuals holding assets disproportionate to their known sources of income** - Public exposure of corruption and the corrupt on the line of the list of '**Politically Exposed Persons**' available on the site of Global Financial Integrity.
- xiii. '**Fry the big fish**' as the Prime Minister has recently urged the anti-corruption authorities and especially the CBI. This would require handing out exemplary punishment to the 'rich and powerful' involved in corruption after fast-track trial of corruption cases.
- xiv. Immediately **accord President's consent to The Bihar Special Court Bill, 2009** pending with the Centre since March, 2009 which provides for setting up of special courts for speedy trial of corrupt government officials, both serving and retired, and giving these courts the power to confiscate assets disproportionate to the known sources of income of those held guilty. The Bill makes it mandatory for trials of corruption cases to be completed in a month and, in cases of acquittal, in the next six months. **Government of India should ask all States to enact laws on the lines of the Bihar Special Court Bill.**
- xv. **Make offences under FEMA 'criminal offence'** and not just 'civil offence'.

- xvi. **Enact Corrupt Public Servants (Forfeiture of Property) Act** as has been recommended by several Law Commissions and the CVCs in the past.
- xvii. **Immediately ratify the UN Convention against Corruption (UNCAC)** as this would strengthen the hands of CVC and the CBI in tracking and recovering India's stolen Assets.
- xviii. Set up an **Integrity Commission** comprising of five eminent individuals drawn from civil society with unimpeachable track record to monitor the operation of the **National Mission against Corruption**. This Mission can succeed only if all investigative arms of Government like CBI, Income Tax, Directorate of Revenue Intelligence, Intelligence Bureau, State Vigilance Departments coordinate their activities and share details with each other.
- xix. **Prescribe procedure for confiscation of benami property under Section 8 of the Benami Transaction Prohibition Act (BTPA),1988**
- xx. Suitable amendments may be made in the **"Double Taxation Avoidance Agreement"** so that the tax authorities may directly obtain information from the tax authorities of other countries with whom Tax Treaties have been entered into.
- xxi. To enter into Agreements and Treaties such as Tax Information Exchange Agreements (TIEAs) so as to enable the Government to take suitable criminal action against unscrupulous individuals or entities and to bring back country's stolen assets.
- xxii. Immediately pass **The Public Interest Disclosure (Protection of Informers) Bill -2009** after replacing the word **'Informer'** with **'Whistleblower'** and incorporating certain other changes which have been suggested by the civil society.

