

# **Demonetization as utilitarianism**

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## **Abstract**

*The November 2016 demonetization of five hundred and one thousand rupee notes still lingers in the memory of both the common man and the government. This Article considers the act of demonetization from the perspective of the now unfashionable and much maligned theory of Utilitarianism. Utilitarianism's fall from grace is because of some of its characteristics that render it unsuitable as a complete normative understanding of society: these are its maximisation goal, aggregating nature and inherent consequentialism. This article discusses how the Government's act of demonetization, although well-intentioned, faces the very same criticisms that are leveled at utilitarianism, rendering it a utilitarian and normatively unjustifiable action.*

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## **Introduction**

On the 8<sup>th</sup> of December at 9 pm, the Prime Minister Mr. Narendra Modi addressed the nation and made a declaration that struck fear in the hearts of many Indians.

“To break the grip of corruption and black money, we have decided that the five hundred rupee and thousand rupee currency notes presently in use will no longer be legal tender from midnight tonight that is 8th November 2016.”<sup>2</sup>

(Chakraborty2016).

The Modi government’s war against black money has been well-documented and various threats and timelines from the government to declare all black money have yielded ‘nearly 1 lakh 25 thousand crore rupees of black money were belonging to the corrupt.’<sup>3</sup> This move by the government, referred to as a ‘surgical strike’ on black money due to the swiftness and secrecy surrounding it, cannot be called unprecedented but it has succeeded in shocking the Indian economy and its people.<sup>4</sup> This article compares this act of demonetization with the theory of utilitarianism which justifies actions that are done for the greater good and lauds those which maximize the greatest good for the greatest number. The comparison highlights that demonetization is subject to the same criticisms as utilitarianism and can be seen as a utilitarian act, which ultimately renders it a difficult act to defend.

## **What is demonetization?**

Demonetization is the act of stripping a currency unit of its status as legal tender. The Indian Government has twice before demonetized its currency.<sup>5</sup> The first was in January 1946, prior to Independence when the Raj government demonetized the 500, 1000 and 10,000 rupee notes. These were reintroduced in 1954. The second time was in 1978, when Morarji Desai’s government went against the then RBI Governor I.G. Patel and introduced The High Denomination Bank Notes (Demonetization) Act which made the Rs 1,000, Rs 5,000 and Rs 10,000 notes illegal again. While the Rs 1000 was reintroduced in November 2000, the others

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<sup>2</sup>AbhishekChakraborty, *Read: Entire Speech Of PM Modi Announcing Large Notes Banned*, NDTV (Nov. 8, 2016), <http://www.ndtv.com/india-news/read-entire-speech-of-pm-modi-announcing-large-notes-banned-1622990>.

<sup>3</sup>*Id.*

<sup>4</sup>Biswajit Bhattacharyya, *Note Ban: Govt Can’t Decide How Much Money We Can Withdraw*, QUINT (Nov. 21, 2016), <https://www.thequint.com/currency-ban/2016/11/21/note-ban-state-cant-decide-how-much-money-i-can-withdraw-demonetisation-rs-500-note-rs-1000-note-currency-ban>.

<sup>5</sup>AnanyaBhattacharya, *A brief history of India pulling bank notes from circulation*, QUARTZ INDIA, (Nov.8 2016), <http://qz.com/831674/rupee-currency-demonetization-a-brief-history-of-india-pulling-bank-notes-from-circulation/>.

are being out of circulation since then.

Prime Minister Modi's address to the public highlights that the rationale behind demonetization was to tackle the severe black money situation in the economy. The White Paper on Black Money highlights that there are three sources of black money – crime, corruption and business.<sup>6</sup> The Report highlights that the 'criminal' aspect of this normally includes proceeds from illegal activities including racketeering, trafficking, forgery, money from sale of drugs, securities fraud, embezzlement, sexual exploitation and prostitution, bank frauds and illegal trade in arms. The 'corrupt' section of such money stems from bribery and theft by those holding public office as well as money that is spent on election costs. The 'commercial' aspect of black money usually results from tax evasion by attempting to hide transactions and any audit trail relating thereto, leading to evasion of one or more taxes. India has long had a parallel economy that is funded by black money and this has to a large extent detracted foreign investors, despite the country's high projected economic growth rates. The belief of the government clearly was that culling the parallel economy would undoubtedly send a positive signal to foreign investors, reducing the costs and uncertainties that they must take into account when contemplating investing in India.

### **Can the government demonetize?**

One of the first questions that was prevalent in the minds of those whose memories did not extend back to 1978, was that can the government demonetize? And the answer to this is yes. The Reserve Bank of India Act 1934 states that 'On recommendation of the Central Board the [Central Government] may, by notification in the Gazette of India, declare that, with effect from such date as may be specified in the notification, any series of bank notes of any denomination shall cease to be legal tender [save at such office or agency of the Bank and to such extent as may be specified in the notification].'<sup>7</sup>

The Modi government has done precisely that, via Notification S.O. 3408(E) where it states that the bank notes of existing series of denomination of the value of five hundred rupees and one thousand rupees (hereinafter referred to as the specified bank notes), shall cease to be legal tender on and from the 9th November, 2016. The Central Government has made certain exemptions for the convenience of the public in carrying out certain urgent transactions in

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<sup>6</sup>Government of India, Ministry of Finance, WHITE PAPER ON BLACK MONEY (2012).

<sup>7</sup>Section 26 (2), The Reserve Bank of India Act 1934, Act No. 2, Acts of Parliament, 1934.

government hospitals, pharmacies, certain milk depots, petrol pumps etc.<sup>8</sup> The Notification was extended on the 9<sup>th</sup> to include amongst other things making payments on all toll plazas on the State and National Highways (after huge traffic jams and difficulties were faced on highways).

## **Utilitarianism**

Although no longer a popular opinion voiced by theorists, Utilitarian theory once dominated the Anglo-American political philosophy. It is hard to define what exactly utilitarianism encompasses- many writers have added to and taken away from it. Jeremy Bentham, often cited as the founding father of utilitarianism argues that it the ‘greatest happiness of the greatest number that is the measure of right and wrong.’<sup>9</sup> By happiness, Bentham meant the possession of pleasures and the absence of pains. All pleasures’, thus were valuable and contributing to happiness- whether it be poetry or playing push-pins. To later scholars, pleasures are not only quantitative, the nature of the pleasure too is relevant, as J S Mill writes, some kinds of pleasure are more desirable than others,<sup>10</sup> and thus these higher and more valuable pleasures like reading poetry would be given greater priority to the lower pleasures of playing push-pin . Such a distinction that may seem paternalistic to the modern reader was created to avoid the criticism leveled at Bentham’s utilitarianism being too hedonistic in nature. To Bentham, the sole end which the legislator ought to consider is society’s total balance of pleasure over pain and this should also be the sole standard in conformity to which ‘each individual ought, as far as depends upon the legislation, to be made to fashion his behaviour.’<sup>11</sup> Thus, the utilitarian pursuit of happiness is not restricted to the individual man, utilitarianism is a theory of both personal morality and social justice, and so while a good man maximizes his and others happiness, a good society maximizes the sum total.

Later utilitarians have developed the theory further. One significant development comes from the work of Smart which draws a distinction between rule-utilitarianism and act-

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<sup>8</sup> Government of India, Ministry of Finance, Department of Economic Affairs, Notification number S.O. 3408(E) (2016).

<sup>9</sup>JEREMY BENTHAM, A COMMENT ON THE COMMENTARIES AND A FRAGMENT ON GOVERNMENT 393(J H Burns and H L A Hart (eds.) Oxford University Press 1977) (1776 and 1928).

<sup>10</sup>J.S. MILL, UTILITARIANISM 11(Batoche Books Kitchener 2001) (1863).

<sup>11</sup>JEREMY BENTHAM, AN INTRODUCTION TO THE PRINCIPLES OF MORALS AND LEGISLATION 34 (J H Burns and H L A. Hart (eds.) Clarendon Press 1970) (1789).

utilitarianism.<sup>12</sup> Rule-utilitarianism is the view that the rightness and wrongness of an action is to be judged by the goodness and badness of the consequences of a rule that everyone should perform the action in like circumstances. Act utilitarianism is the view that the rightness or wrongness of an action is to be judged by the consequences, good or bad, of the action itself. He also distinguishes between hedonistic utilitarians like Bentham who focus on pleasure and non-hedonistic or ideal utilitarians for whom some states of mind have an intrinsic value independent of their pleasantness. Thus, what is apparent is that utilitarianism has significantly developed since the work of Jeremy Bentham, and within it there are several distinctions, classifications and contradictions. However, despite such divisions within utilitarianism, the theory has some common characteristics. Scarre highlights these common characteristics as the desire to maximize some form of welfare, an aggregative nature and inherent consequentialism.<sup>13</sup> It is these three common characteristics that are true of almost all utilitarian theories that this paper considers in relation to the comparison of the act of demonetization to a utilitarian action.

### **Why is Demonetization an act of utilitarianism?**

A utilitarian act as outlined in the earlier section would mean one that maximizes the sum total of happiness in society. It is essentially trampling over the needs of the few to subscribe to an ideal situation where the needs of society are met. Compare this to Modi's repeated strictures on the impact of demonetization in society. His speech refers to the fact that there may be temporary hardships to be faced by honest citizens<sup>14</sup> but that in the interests of contribution to the country's progress such hardships should willingly be faced by the people of the country. The rhetoric of utilitarianism resounds in the Prime Minister's speech, whereby he seemed to suggest that short term lower pleasures like withdrawing one's own money should be sacrificed for the higher pleasure that an Indian Citizen must feel at the idea of an India with no black money in the future. Or in the words of the hedonistic utilitarian, the pain of demonetization, is quantitatively less, than the pleasure of an Indian with no black money. Moreover, if we consider, the common characteristics that all types of utilitarianism share, as outlined by Geoffrey Scarre we can see that all these characteristics are shared by the process of demonetization. It is interesting to note that these three categories are often perceived as being the greatest criticisms of utilitarian theory. The paper looks at the same

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<sup>12</sup>J.J.C SMART & BERNARD WILLIAMS, UTILITARIANISM: FOR AND AGAINST (Cambridge University Press 1973).

<sup>13</sup>GEOFFREY SCARRE, UTILITARIANISM (Routledge 1996).

<sup>14</sup>*Supra* note 1.

three factors that Scarre outlines and highlights that the government's demonetization policy of 2016 suffers from those very three defects. It is the goal of this paper to establish that even if demonetization is not intended as an act of utilitarianism it is definitely subject to the same flaws and criticisms that have rendered utilitarianism as an unpopular theory today. That itself should cause concern about the value of the act of demonetization itself.

### **Welfare Maximisation**

The aim of utilitarianism is to maximize some sort of welfare. Therefore, to the Utilitarian, the best course of action is the one which brings about the highest level of welfare. Demonetization as prescribed by the current government is also an act that the government believes is the best course to increase welfare by reducing black money in the economy. The problem with wealth-maximising actions, is that they often take a very paternalistic view of the society on which they impose the action- a higher authority usually decides on the welfare maximising goal and the means to undertake the goal without the knowledge and regardless of the choices of most people. The parallels to the secrecy around demonetization and the lack of proper mechanisms to deal with the aftermath are indicative of this.

### **Aggregative Nature and Moral Monstrosity**

Another important aspect of utilitarianism is that it is by nature aggregative, meaning that its conception of individual good allows them to be summed up into a single measure of overall good. Utilitarianism holds that the welfare (utility) of different people can be compared, and thus summed up into a total which describes the overall welfare of all people. The problem with this is that it is simplistic to assume that the welfare of different people can be comparable or aggregated. It is clearly evident from the government's demonetization policy that the different impact on different people had not been considered- in other words the assumption of the government was that demonetization would have the same impact on everyone's welfare. Even assuming that we create a boundary around criminals and terrorists who will undoubtedly be inconvenienced (although probably for a short period only) and do not consider the impact on their welfare, the impact on people's welfare cannot be aggregated. For instance, the impact on a person living in rural area whose entire life savings are in cash and who does not have a bank account is very different from those operating in cities whose transactions and payments are largely cashless. However, the government has failed to take this into consideration. Thus, by bundling the welfare of all Indian citizens, the

Government has failed to look into the different impact on welfare on different people, and thus falls into the same trap of aggregation as utilitarianism.

One of the main criticisms of this aggregating nature of utilitarianism is that it leads to moral monstrosity because an innocent individual is often sacrificed on the altar of social need and their rights overridden for the social good. Bernard Williams illustrates this in his example of Jim, the guest of an officer in a small South American town who is about to have a group of political prisoners shot.<sup>15</sup> The officer tells Jim that if he shoots one of the prisoners the others will be saved. As Williams writes, in such a situation it seems obvious that the utilitarian would say that Jim should kill the prisoner and that this would be the 'right' thing to do. He claims that the issue here is not only to conclude what would be the right thing to do but also to determine the sort of considerations that must be taken into account to assess such a moral dilemma. The problem with utilitarianism, he writes, is that it cannot take account of Jim's own convictions that define his integrity and have an effect on what he then does.<sup>16</sup> Utilitarianism cannot account for moral dilemmas and Williams thus concludes that it is unacceptable as a moral doctrine. Much like the failure of utilitarian decisions to reflect the complexity and analysis that must precede any decision with far-reaching consequences, the Government's action of demonetization reflects no consultation or deliberation with the public. The Government's defence of course being that such an action could operate successfully as a surgical strike rather than a reasoned debate.

### **Consequentialism**

Another feature and problem of utilitarian theory is its inherent consequentialism. Consequentialism means that what matters, morally speaking, are the consequences of actions rather than the actions themselves- in other words the end justifies the means. This causes difficulties especially where rights are concerned because according to utilitarianism, rights are only important in so far as they promote the good; they have no intrinsic or inherent value. Thus to the utilitarian only when something can be seen as promoting the 'good' can it also be considered a 'right'- there are no inherent rights.

This too brings to mind the impact of demonetization. It is an infringement of rights of the people in three ways. Firstly, by negating the value of thousand and five hundred rupee notes suddenly, and by denying their use as legal tender the government has breached the basic rule

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<sup>15</sup>SMART & WILLIAMS, *supra* note 11 at 97.

<sup>16</sup>*Id.*

of law that the economy must have certainty and stability- while an 'elected government is free to create policy it cannot do so without sufficient discussion – the Rule of Law demands that such discussion happen fairly and freely, and along a predictable process.<sup>17</sup> Surprises do not have a place in a democratic society that swears by the Rule of Law.<sup>18</sup>

Secondly, as noted above demonetization is permitted by the RBI. However, at this point it is pertinent to note that Section 26 (2) of the RBI Act only states that certain series of notes can be withdrawn but the announcement on 8th December demonetized all notes of 500 and 1000 denominations. Thus, there is a question as to whether this is a completely lawful act.

Thirdly, along with declaring 500 and 1000 rupee notes as not being legal tender, certain restrictions have been placed on the ability of people to withdraw or exchange money. Therefore, people cannot withdraw money of any amount above a certain limit even if it is their own hard earned money in their own bank accounts. The idea is that to support cashless transactions in the future, there will be no available cash in the short run. This is a serious issue when considered from the perspective of the right to property. Though no longer a fundamental right, Article 300-A of the Indian Constitution guarantees that no person shall be deprived of his property save by authority of law. It is worth asking whether the restrictions on the right to withdraw and on how much money a person can daily withdraw from his/her account can be set by government. As B Bhattacharya states the entire exercise, if by administrative instruction, seems to be unsustainable by law.<sup>19</sup> To buttress his claims he points to Supreme Court judgment in *Tukaram Kana Joshi v MIDC*<sup>20</sup> where it was stated that the right to property is now gaining multifaceted dimension as a human right, despite not being a basic feature of the Constitution or a fundamental right.

Thus, by ignoring a right which exists as a natural and human right, the government's decision to demonetize and to suspend rights as being unimportant in face of the greater good of eradication of black money is reminiscent of the most criticized ideal of utilitarianism-that of consequentialism.

### **Have the ends justified the means?**

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<sup>17</sup> Harish Narasappa, *Demonetization and the Rule of Law*, INDIA TOGETHER (Nov. 27, 2016) <http://www.indiatogether.org/demonetisation-and-the-rule-of-law-economy>.

<sup>18</sup> *Id.*

<sup>19</sup> Bhattacharya, *supra* note 3.

<sup>20</sup> *Tukaram Kana Joshi v. MIDCAIR*, 2013 S.C. 565.

More than a year has now passed since the government made the decision to demonetize. Although it had consequences for both India's economic growth and market capitalisation, these have not been long term and it seems like the economy is on its way to recovery.<sup>21</sup> However, the question is whether demonetisation actually succeeded in its objective of reducing the black money in the economy. Before starting the debate on whether demonetisation was successful, it is worth considering that it is difficult to isolate the impact of demonetisation alone since it is one of the several weapons that the government has employed to eradicate black money.<sup>22</sup>

Let us consider the impact of demonetisation on black money and the various uses of black money that the Government was keen to eradicate. One of the primary goals was to eradicate the corruption that exists across government offices and in the political arena. While some writers report anecdotal evidence that high-level corruption in the central government is gone,<sup>23</sup> black money has once again permeated the system as is evident from the real estate industry. However, the data in the Reserve Bank of India's Annual Report suggests that currency held by the public is now down almost 10% as compared to last year and that 98.96% of the withdrawn currency was deposited in banks.<sup>24</sup> One good metric to measure the impact of demonetisation on black money is tax compliance and it seems that there has been increased tax compliance since 2016.<sup>25</sup> The Ministry of Finance has stated that the number of returns filed as of August 2017 was up almost 25% compared to an increase of about 10% a year ago. Similarly, the Economic Survey has also stated that the number of new taxpayers due to demonetisation at about 540,000 in the financial year ending April 2017 with a possible rise in returned income at Rs10,587 crore.<sup>26</sup> This demonstrates that at least in using tax compliance as a metric for corruption, there has been a short term positive increase. However, it is important that it is recognized that these gains are short-term and will require some effort to continue this in the future.

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<sup>21</sup>Government of India, Press Information Bureau, Economic Survey 2017-18 (2018)  
[https://timesofindia.indiatimes.com/realtime/Economic\\_Survey\\_2017\\_18.pdf](https://timesofindia.indiatimes.com/realtime/Economic_Survey_2017_18.pdf).

<sup>22</sup>Monica Halan, *Demonetization, one year later. Success or failure?* LIVEMINT, (Nov. 8 2017) <http://www.livemint.com/Opinion/wxDyTt00PCTYcn5AQsZsEK/Demo-one-year-later-Success-or-failure.html>.

<sup>23</sup>*Id.*

<sup>24</sup>Reserve Bank of India, *Annual Report 2016-2017* (August 2017)  
<https://www.rbi.org.in/scripts/AnnualReportPublications.aspx>.

<sup>25</sup>Halan, *supra* note 21.

<sup>26</sup>Government of India, Press Information Bureau, *Economic Survey 2017-2018* (2018)  
[https://timesofindia.indiatimes.com/realtime/Economic\\_Survey\\_2017\\_18.pdf](https://timesofindia.indiatimes.com/realtime/Economic_Survey_2017_18.pdf).

However, despite the figures circulated by the Government, this has not deterred many commentators from stating that demonetisation was an unmitigated failure. Many have pointed out that the failure of demonetization comes from the incorrect premise that black money means cash while cash only counts as 1% of black money,<sup>27</sup> and most black money is concealed in real estate and other assets. Moreover, they have pointed to the fact that demonetisation has become almost an embarrassment for the Government and the reason for such is that it was carried out without preparation and caused big losses to the unorganised sector<sup>28</sup> which has led to long-term economic and social effects in relation to its impact on the economy, growth rates and even the Indian people.

## **Conclusion**

More than a year after demonetisation, the aftermath of demonetisation is still being faced by the Indian and the Indian economy. Although there has been some debate about the success or failure of the policy and by and large the economy is recovering, the months of hardship and strife following the Modi Government's announcement in November 2016 still lingers in the historically short memory of the public. Though the stated intention of the Government was clearly a noble one, the utilitarian action of sacrificing people and their rights to the altar of a future common good and the significant hardship imposed by it will probably continue to linger in people's memories come election time.

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<sup>27</sup> Arun Kumar, *Demonetization: now a proven failure?*, THE HINDU (Sept 8 2017)  
<http://www.thehindu.com/opinion/op-ed/demonetisation-now-a-proven-failure/article19638198.ece>.

<sup>28</sup> *Id.*