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Abstract

The Article on the topic- The dark side of Finance Bill, 2017: Corruption Legalized!, contends insightfully how Corruption has now been legalized, in India. Basically it does not include the small number of briberies and all; it includes the big corporate donations to the political parties of the country.

The first couple of words talk about how it was introduced in the Parliament and got passed as a money bill in the house. With the help of the 2017 bill, the government and mainstream media find their way towards corruption without the knowledge of the public at large. The public was shown a smokescreen just to deviate the focus from this bill.

This Article elucidates stingingly that why the mainstream media was silent on this crucial matter. The contentions behind the bill are also explained briefly in this article.

Most importantly, if we check out the study of the Corruption Perception Index of 2017 and the reports of the leading organization like Transparency International then we will find out the ranking of our nation globally and the violence carried out against the whistleblowers by the people in power.

Some suggestions have also been laid down to lessen the corruption if those factors are considered properly then only we can have a scale of 100 i.e. a clean nation on the index.

Consequently it has to be admitted that corruption in India is still on the rise and we have to stand against this together otherwise this will be going to have a brutal impact on our lives.

The dark side of Finance Bill 2017: Corruption Legalized!

Corruption is the biggest menace in our society. Being an economic issue, it is affecting the global economy. The corruption that we are going to talk about includes big corporate donations to political parties and is widely associated with government and political parties about which the mainstream media is least bothered in the year 2017.

The coverage of the Finance Bill, 2017 was not done in the way it needs to be done by the media. The public was not apprized accurately regarding this bill and its loopholes. Let us first know that when this bill was introduced in the Parliament.

So coming up to this, as per **Article-110** of the Constitution (money bill defined), finance bill is a money bill which was introduced in Lok Sabha (i.e. lower house) on February 1, 2017, and was passed on March 22, 2017¹. The Bill was opposed by member **Tathagata Satpathy** (BJP, Odisha) and **NK Premchandran** (Revolutionary Socialist Party) in the debate.

If we check out Article-110 then we will find that what can be included in the money bill and surprisingly it does not talk about linking Aadhaar card.

But this bill has been **passed as per Rule 388** which says that “Any member may, with the consent of the Speaker, move that **any rule may be suspended in its application to a particular motion before the House** and if the motion is carried the rule in question shall be suspended for the time being”².

The Corruption which has been discussed in this article will acquaint the reader about the things done undercover whether it has been done by our government or other agencies or both they remained unnoticed and undisclosed till now.

¹ The Finance Bill, 2017, PRSIndia, (Mar.20, 2020, 2:20 PM), <https://www.prsindia.org/billtrack/finance-bill-2017>.

² Rules of Procedure and Conduct of Business in Lok Sabha, Fifteenth Edition, 2014, Lok Sabha Secretariat, New Delhi, (India), http://164.100.47.194/loksabha/rules/RULES-2010-P-FINAL_1.pdf.

With the coming up of the Finance Bill, corruption has been legalized in our country on **22nd March 2017**. Most of us remain unaware of its hidden side as it does not come across us openly like other matters do. Or should I say that we remain uninformed about this?

The Finance Bill is governed by Rule 219 of Rules of Procedure and Conduct of Business in Lok Sabha which states; 'Finance Bill' is the Bill that is ordinarily introduced in each year to give effect to the financial proposals of the Government for the following financial year and includes a Bill to give effect to supplementary financial proposals for any period³.

Unlike the other bills, the Finance Bill just requires the mandate of the lower house. The upper house can only make the suggestions over this and nothing else. Bills ordinarily incorporate provisions that give effect to the imposition of a tax or a change in existing tax rates- such as lowering of income tax, or changes to corporate tax, customs or excise duties⁴.

So, we can consider this as Corruption on a very big scale because of the following controversies that remain unanswered and unspoken by the Government and Mainstream Media respectively in the year 2017.

At this time, why the mainstream media was having silence? And the big question that comes in our mind is that why their mouths were shut despite knowing that it's a very crucial issue for the whole country and requires more coverage than given to other useless things daily.

So if we check out the Finance Act then we will find that 55 of the 189 clauses have nothing to do with taxation- clause(a) or have any connection with any of the clauses(b) to (g) of sub-Article(1) of Article 110.

Contentions behind the Bill-

Election Funding or Electoral Bonds- Disclosure of not required:

As per this Bill of 2017, the Donor is eligible to grant donations to more than one political party, through this new instrument of 'electoral bonds' and they are not required to disclose their names

³What is Finance Bill?, B.Standard, Mar.20, 2020, <https://www.business-standard.com/about/what-is-finance-bill>.

⁴ Finance Bill, The Financial Express, Mar.21, 2020, <https://www.financialexpress.com/archive/finance-bill/177916/>.

and other details to anyone. This is lacunae of this bill which remains unanswered by the government. And this aspect of election funding is beneficial not only to the ruling government but also to other political parties.

By doing this, **foreign funding of parties had been legalized** that means donations from foreign sources will also be anonymous.

Prior, a maximum limit of 7.5% was restricted for the contribution⁵. But **as per the amendment** to the Finance Bill, 2017; The donor can donate to the political parties under the Black sheet of Finance Bill as per their wish i.e. (i) without any disclosure of details to anyone and (ii) without any limit, which means no cap over the donation of bonds by the companies.

Enhanced powers to Income Tax Officials-

As per the **amendment to Section-135** of the Income Tax Act, the income tax officials are not restricted to tell the Individual or even an Appellate Tribunal the reason why he/she conducted the raid.

This **amendment will take effect retrospectively from 1st October 1975**⁶. Also under this, the tax officials have the power to seize any property of the person being raided, and the reason for the seizure can be vague reasons as well or they can respond by saying that seizure of property is done in the interest of the revenue for a period of up to six months. This power can be misapplied freely by the Authorities that can leave a person bankrupt.

The main lead is that for all this done to an individual, he/she is not even permitted to move to the court for things that happened.

Aadhaar Card-

This Finance Bill of 2017 also consists of a provision that says that it is compulsory to link your Aadhaar card to apply for PAN and filing of income tax returns.

⁵ Deductions under Section 80GGB, Archit Gupta, Srivatsan Chari, and Ankit Solanki, (Mar.18, 2020, 10:21 AM), <https://cleartax.in/s/section-80ggb>.

⁶ Finance Bill, The Financial Exp., Mar.21, 2020, at pg.no.1, <https://www.financialexpress.com/archive/finance-bill/177916/>.

Just one year before this Bill i.e. in 2016, the Supreme Court came up with its judgment reminding the Central Government that Aadhaar card cannot be made mandatory for any services.⁷ However, if you won't link your Aadhaar Card, the PAN will be rendered invalid and on the other hand you will become a tax defaulter automatically.

It's unfortunate to see mainstream media completely silent on this important issue, though some online news portals did report it.

All of this was done in one single law; being the citizens of the country we must raise our voice at the times when these types of controversial bills surround us. Otherwise this will have a brutal impact on our lives only.

Corruption Perception Index-2017:

It's an index that ranks 180 countries and measures perception of corruption, especially in the Public Sector by using a scale of 0 to 100, where 0 is highly corrupt and 100 is very clean and the index found that more than two-thirds of countries score below 50, with an average score of 43⁸.

Globally more than 9 out of 10 journalists were killed and even got murdered in countries across the Asia-Pacific region, where the score was 45 or less on the index. This whole thing was reported by the Committee.

Transparency International report stated that the **2017 index** affirm that India score of 40/100 puts it below the global average however, the reason behind this score was many journalists, activists, opposition leaders, and even staff of law and enforcement or watchdog agencies are threatened by the government and public officials⁹.

⁷ Utkarsh Anand, Supreme Court reminds govt: Aadhaar cannot be mandatory, The Indian Exp., Mar.18, 2020.

⁸ Corruption Perceptions Index 2017, Patricia Moreira (Mar.19, 2020, 11:28 AM), https://www.transparency.org/news/feature/corruption_perceptions_index_2017.

⁹ Coralie Pring, Jon Vrushi and Roberto Kukutschka, Digging Deeper into Corruption, Violence Against Journalist and Active Civil Society, Patricia Moreira, (Mar.19, 2020, 12:30PM), https://www.transparency.org/news/feature/digging_deeper_into_corruption_violence_against_journalists.

Thus, no country is clean across the world i.e. no country is perfect 100. Only because of these laws and policies of the government and media ordinary people have to suffer in the end, as both of these are associated with higher levels of corruption worldwide.

So, to stop this practice, speak out together and place those in power into an account.

After the Act was passed, The **Constitutional validity of the Finance Act was challenged and several petitions** (17 in total) were filed as well, in the below-mentioned case:

Rojer Mathew

v.

South Indian Bank Ltd¹⁰.

It was a **5 Judge Bench** comprising of **Judges:** NV Ramana, D.Y. Chandrachud, Sanjiv Khanna, Deepak Gupta, Ranjan Gogoi.

The Supreme Court referred this to a larger bench; the matter about the passage of the 2017 Finance Act as a Money Bill¹¹.

BURNISHED LAW JOURNAL

- The **issue** was that, the 2017 Finance Act was introduced and passed as a money bill instead of the usual finance bill. This thing was seen as a move to evade the Rajya Sabha but the ruling BJP did not have a majority. It has enough reasons to doubt.
- The 2017 budget was the first to be presented after the Demonetization in November 2016. Elections were also being held in Uttar Pradesh, Punjab, Goa, and Manipur and this was the key concern for BJP¹².
- Thus, by certifying it as a Money Bill, the government could bypass the Rajya Sabha (an upper house which can give recommendations) and get it passed in the Lok Sabha (lower house) where it had a brute majority.

¹⁰ Rojer Mathew v. South Indian Bank Ltd., (2018) 16 SCC 341 (India).

¹¹ All India Press Trust of India, "Deeply Grateful": Jairam Ramesh on Supreme Court order on Finance Bill, NDTV, Mar.19, 2020.

¹² Express Web Desk, Election results 2017 LIVE updates: BJP sweeps Uttar Pradesh, Uttarakhand; Cong tramples on AAP's broom, The Indian Exp., Mar. 19, 2020.

- But apart from the budget the Act also had other provisions on which the opposition write for. It tweaked about 40 different laws and was also used to pass several Non- Finance Amendments something that a money bill is not supposed to be used for.
- Some of them include making Aadhaar mandatory for PAN and income tax returns, empowering income tax departments to conduct raids anywhere and seize items during such raids without giving valid reasons, allowing companies to make higher political donations limitlessly.
- The Bill also amended provisions on the **structure and governance** of 26 Judicial Bodies which include merging 8 tribunals.
- While some tribunals were abolished the law gives the Centre the power to make rules for the functioning of others including appointments and removal of the Chairperson and members.
- Apart from referring the case to a larger bench, the **Supreme Court upheld Section-184** of the Act which has entitle the government to frame rules concerning tribunals but it struck down a set of new tribunal rules which were framed after the act was passed also the court ordered the center to reformulate the rules.

Suggestions to lessen corruption-

To prevent our country from being ~~one of the most corrupt~~ nations below are some suggestions which can be taken into account to lessen it and its brutal effects over the community. These suggestions are mentioned below-

Economic Development- It's is a must and vital factor which cannot be ignored, the Demand-Supply gap is to be reduced to stop corruption.

Make Central Bureau of Investigation independent- At this time the CBI is working under the government because of which it cannot work openly.

Show accountability to the citizens that where tax money, MP/MLA fund is spent- All the services must be conveyed within the timespan and there has to be a forfeiture concerning the failure in the delivery of services and upon the officers who take illegal decision to harass citizens. The government has to brief its public where they have used the fund for the well-being of the society.

Make donations of Political Parties transparent- There should be entire transparency in the donations made to the political parties whether done by a foreign company or the domestic one. Also, minute details must be disclosed to have an adequate analysis of the bonds granted.

Bring **Political Parties under the RTI Act** and they should be made accountable to the public.

Safety should be provided to the corruption whistleblower- Adequate safety is needed for those who help the society in one way or another.

Close bureaucratic loopholes, digitalization- The decisions which are taken by the government must be put up online and accessible to every citizen of the country which ultimately increases the credibility of the people over the government.

Hence, if these things are considered properly then we can tackle the menace of corruption.

Conclusion-

Despite having anti-corruption agencies (like Prevention of Corruption Act, Right to Information Act, Central Bureau of Investigation, Central Vigilance Commission, Controller, and Accountant General Departmental Vigilance, Lokpal, Lokayukta, State Vigilance, and Higher Courts) in India, Corruption is still deeply entrenched and on the rise.

You may overwhelmingly support any party for now, but remember the government keeps on changing and once someone you dislike comes to power, they will use this same law against you if you speak against them.

