

The Nefarious Money Bills*

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True to form, the BJP government is all set to change the texture of the Indian State into a snooping and terrorising institution whose bonding with corporate capital will now get even closer and beyond any public scrutiny. And the content of the change it is unleashing is as damaging to democracy as the manner in which it is doing so.

The manner of its doing so consists in introducing important legislation in the guise of “money bills”. Now, any important legislation has to be approved by both houses of parliament before it can become the law of the land, which is why, failing its passage in the Rajya Sabha, the Land Acquisition ordinance has still not become permanently legally binding. In the case of “money bills” however even if the Rajya Sabha objects to a proposed enactment, this fact cannot prevent its becoming the law of the land as long as the Lok Sabha continues to back it. Using the deception of calling important legislations “money bills” even when they palpably are not, or of incorporating into the Finance Bill, which is indubitably a “money bill”, all kinds of basic changes in our polity which are not confined to budgetary matters per se, the BJP government is using its majority in the Lok Sabha to push through far-reaching changes in the texture (though not of course in the basic class nature) of the Indian State.

In the case of the Aadhar Bill for instance, it sought to make the Aadhar card virtually compulsory for all citizens. It did not enter into any debate on the subject, and persisted despite protests from opposition parties as well as from several voluntary organisations, and despite a Supreme Court directive to the contrary, by pretending that it was only a “money bill” where the Lok Sabha’s majority opinion was all that mattered, and not a piece of legislation which had wider implications, including for the citizens’ right to privacy. The Bill made the possession of an Aadhar card an essential pre-requisite not just for applying for a Pan Card, a driver’s license, and a bank account, but even for accessing the mid-day meal scheme, for applying for work under the MGNREGS, for obtaining subsidised provisions under the public distribution system, and for getting provident funds and pensions for the aged, the widows and the differently-abled. This was a transgression of a Supreme Court order of October 15, 2015, which had said that Aadhar cannot be made mandatory for welfare programmes.

The Supreme Court in an order of March 27, 2017, has once again reiterated, in response to a contempt-of-court petition filed against the government’s proposals in the Aadhar Bill, that access to welfare schemes, like MGNREGS, subsidies under the PDS, mid-day meals, provident funds and pensions, and the Jan Dhan Yojana, must not be made conditional upon the possession of an Aadhar card. But it has allowed the government to make Aadhar mandatory for opening a bank account (other than under the Jan Dhan Yojana), and for applying for a Pan Card or a driver’s license, on the grounds that these are not welfare services.

The Supreme Court’s use of the “welfare”-“non-welfare” distinction for deciding on whether Aadhar should be mandatory is extremely unsatisfactory and misses a basic point. MGNREGS for instance is not just a “welfare” measure, but a de facto right conferred on the rural BPL population through a unanimous resolution of both houses

of the parliament. It is not just a “do-gooding” act, but a right of the people. Making Aadhar mandatory for applying for work under the MGNREGS is not just snatching “welfare” away from the people; it amounts to snatching a right away from the people. In any case however, no matter what one thinks of the logic of the Supreme Court judgement, the BJP government’s intentions are clear: it is to make Aadhar mandatory for all and the danger of doing so is quite clear.

The Aadhar Bill allows for unprecedented surveillance of every citizen and a massive invasion of privacy. The government can use these to target political opponents, critics, dissidents, and others who may be “straying out of line”. Because it enables data sharing even by private companies, it renders all citizens vulnerable to identity theft, fraud, cyber-piracy, data breaches and other uses of their personal data with very serious security implications. Even though the Bill has some protection and cyber-security provisions, they are grossly inadequate. And yet this is what the BJP government wants to foist on everyone without even the approval of the Rajya Sabha.

A second area where the government is seriously trespassing on citizens’ rights under the guise of a “money bill” relates to the draconian powers being given to income tax authorities in the new Finance Bill. Until now search and seizure operations could be ordered by the income tax authorities only if they had reason to believe that “certain documents are in the possession of the assessee which he is not likely to disclose or that certain bullion and other undisclosed assets are in his possession which he is not likely to disclose”. An order to this effect had to be issued by the officer before search and seizure operations could be carried out, which enforced a degree of accountability, and hence restraint, upon the officer because this order could be challenged. Now however such restraint is being removed, which makes tax raids on opponents and dissidents and seizures of their assets that much easier. The State, through the personnel of the income tax department, is now set to assume a far more intimidating form than till now.

While this measure is being justified in the name of eliminating corruption and black money, another provision in the same Finance Bill serves ironically to legitimise corruption. The biggest source of corruption in the country, as is well-known, lies in the nexus between the corporate sector and the ruling class politicians. Now, under the existing Company Act, only a company that has been in operation for at least three years can contribute to a political party, and there is a political funding cap of 7.5 percent of the net profits of the company. Besides, any such funding has to be done through a Board resolution, which must also state the name of the beneficiary political party. The BJP government is amending the Company Act to do away with the cap and also the need to name the political party which is being funded. This means that any company can contribute any amount of money to any political party without anyone knowing anything about it.

Companies would obviously fund only those political parties which are in power or likely to come to power; and they would do so in expectation of gains to be made through that party returning the favour when in power. Such cozy deals would now escape all public scrutiny and can assume unlimited magnitudes because of the BJP’s proposed amendment, from which it obviously hopes to profit handsomely. This amendment of the Company Act is a massive assault on democracy, a strident move towards the disempowerment of the working people, a legitimisation of the fusion of corporate and State power, and a license for big-ticket corruption.

The BJP government in short is, in the most blatantly undemocratic manner, that is, in the guise of “money bills” steamrolled through its majority in the Lok Sabha, introducing basic changes in the texture of the State which would make it a snoop, and intimidating State working in close cahoots with corporate capital.

Until now we have seen vigilante mobs of Hindutva ruffians roaming the streets, terrorising people, lynching individuals, and branding those they dislike as being “anti-national”. This ruffian attitude incidentally is not confined to only some fringe Hindutva elements; the other day even a former home secretary of the country, RK Singh, whose official duty had been to uphold the law of the land and who is now a BJP member of parliament, expressed the view that “we are nationalists” and cannot avoid assaulting anyone who is “anti-national”. But now, in addition to these roaming ruffians, the organs of the State are also going to be let loose upon anyone who dares to criticise the ruling party, which, in addition to such strong-arm tactics from diverse sources, will also have access to unlimited corporate funding for fighting elections. And this is the government, ironically, that imposed a massive demonetisation upon the people, whose effects are still being felt by them, in the name of fighting corruption and black money!

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