

LAWXPERTSMV.**UPSC : LAW OPTIONAL: CURRENT AFFAIRS - FEBRUARY - IN-DEPTH ANALYSIS****IN-DEPTH : CONSTITUTIONAL LAW : DUBIOUS TACTICS OF PASSING "ORDINARY BILL" AS "MONEY BILL" – A CRITICAL ANALYSIS.****ISSUES : MONEY BILL, AADHAR ACT, RIGHT TO PRIVACY**

BACKGROUND : Aadhar scheme is to provide to every Indian a unique identity number so that to enable a fair and equitable distribution of benefits and subsidies. To give legal sanction to the scheme, Aadhaar (Targeted Delivery of Financial & Other Subsidies, Benefits & Services) Act, 2016 was passed.

ISSUE : This bill was opposed by opposition parties (particularly in Rajya Sabha) + parliamentary standing committee.

WHY>

1. Ordinary bill is dubbed as "money bill" to disregard the opposition in rajya sabha i.e., because Money bill can be passed by securing a simple majority in the Lok Sabha while rendering redundant **any opposition** to the legislation in the Upper House of Parliament.
2. It also violates right to privacy.

The present Bill was, in effect, **an ordinary law (NOT MONEY BILL) creating** a substantive legislative platform for the Aadhaar scheme and introduced for the first time offences and penalties by way of imprisonment of up to three years as well as a fine.

MANIPULATION OF CONSTITUTIONAL PROVISION :

- The scheme of Article 79 and 81 is to ensure the functioning of the two Houses, namely the Council of States to particularly safeguard the interests of various States and the House of People. Both Houses represent the people.
- The legislative manoeuvres, which took the form of depicting a normal Bill as a money Bill **undermined the prestige and role of the Rajya Sabha**, which is the embodiment of the States in the Central legislature since its members are elected by the State legislatures.

SO WHAT IS A MONEY BILL? In any parliamentary system, a money Bill is one that entails withdrawing, paying and appropriating finances from the consolidated funds of a country. *In India, the defining provision for the money Bill is Article 110 of the Constitution.*

Article 110 states that if a Bill contains anything beyond financial dealings relating to the consolidated funds of India, then it has to be a normal Bill.

A money bill is defined by Article 110 of the Constitution, as a draft law that contains only provisions that deal with all or any of the matters listed therein.

SEVEN FEATURES : imposition or regulation of a tax; the regulation of the borrowing of money by the Government of India; the withdrawal of money from the Consolidated Fund of India; and so forth.

OTHER FEATURES OF THE MONEY BILL, IF NOT “INCIDENTAL”, THEN IT IS NOT A MONEY BILL: In the event a proposed legislation contains other features, ones that are not merely incidental to the items specifically outlined, such a draft law cannot be classified as a money bill.

IN CASE OF DISPUTE, SPEAKER DECISION IS FINAL : Article 110 further clarifies that in cases where a dispute arises over whether a bill is a money bill or not, the Lok Sabha Speaker’s decision on the issue shall be considered final.

- Article 110 (3) lays down that “*if any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final*”.

However, there are several instances in which Parliament’s decisions have been subjected to judicial review. These include decisions made by speakers under the anti-defection law.

GOVERNMENT PUTS 2 ARGUMENTS:

1. To classify a draft legislation as a money bill by *the speaker is not subject to judicial review*.
2. The Aadhaar Bill fulfilled all the constitutional requirements of a money bill.

1st argument of Government :

- *Mohd. Saeed Siddiqui v. State of UP (2014)*. Here, a three-judge bench had ruled, in the context of State legislatures, that a Speaker’s decision to classify a draft statute as a money bill, was not judicially reviewable, even if the classification was incorrect. This is because that this question constituted nothing more than a mere procedural irregularity.
- It has the effect of negating altogether the Rajya Sabha’s legislative role, making, in the process, a mockery of our democracy. It is imperative, therefore, that the court refers the present controversy to a larger bench, with a view to overruling Siddiqui.

EARLIER : *Ram Pal vs. Hon’ble Speaker Lok Sabha and Others (2007) 3 SCC 184*, it has been held that the proceedings which may be *tainted on account of substantive or gross irregularity or unconstitutionality* are can be subject to **judicial scrutiny**.

2nd argument of the government : Ordinarily, a draft legislation is classified as a money bill when it provides for funds to be made available to the executive to carry out specific tasks. In the case of the Aadhaar Act, such provisions are manifestly absent.

Aadhaar has brought out to plain sight the worryingly totalitarian impulses of our state. The government has argued, with some force, that Indian citizens possess no fundamental right to privacy.

Right to privacy

- Privacy is important not merely because it advances the cause of equality and freedom but also because it is, in and of itself, a treasurable value.
- A failure to protect privacy adequately can have disastrous consequences that affect our abilities to determine for ourselves how we want to live our lives.

CONSTITUENT ASSEMBLY : While drafting the Constitution, amendments were moved to insert safeguards against search and seizure within the fundamental rights chapter. Dr. B.R. Ambedkar pointed out that these safeguards were already provided by the Code of Criminal Procedure but he agreed that adding them to the Constitution would make it impossible for the legislature to tamper with them.

LAW OPTIONAL PLAN FOR 2018 : STARTS FROM MARCH 06TH OF 2017 – ENROLL YOURSELF NOW!

SMS TO 8903618144 <NAME> SPACE <BEST TIME TO CALL YOU>

AFTER INDEPENDENCE : However, the Supreme Court soon read the right to privacy into the Constitution. Progressively, in case after case, it realised that the rights to liberty and freedom of expression cannot survive if the right to privacy is compromised.

1. It is the right to privacy that protects us from the indiscretions of doctors who see us at our most vulnerable.
2. It is the right to privacy that prevents the police from turning our homes inside out on a whim
3. It is the right to privacy that prevents law enforcement from listening in on our phone conversations and recording them.

When large-scale telephone tapping was challenged in *PUCL v. Union of India (1997)*, the government attempted the very same national security argument that is being used for Aadhaar. The Supreme Court ruled that telephone tapping would violate Article 21 of the Constitution unless it was permitted by the procedure established by law, and that it would also violate the right to freedom of speech and expression under Article 19 unless it came within the permissible restrictions.

CONCLUSION: The Aadhaar Act hits at the core of this value. It permits the creation of a database of not only biometric information but also various other private data, without so much as bothering about safeguards that need to be installed to ensure their security. We scarcely need to stretch our imaginations to wonder what the government — and other agencies to which this information can be shared without any regulatory checks — can do with all this material.

MISSION IAS 2018 : LAW OPTIONAL : LAWXPERTS MV INDIA. STARTS AT MARCH 06TH 2017

FEATURES OF LAW OPTIONAL PLAN -2018 :

1. **MICROPLANS** - will tell you what to study :everyday. Daily goals. So that you can complete your law optional syllabus by April 2018.
 - **MICROPLANS FOR 4 WEEKS IS ATTACHED WITH THIS NOTIFICATION.**
2. **TRIO-NOTES** : FOR ALL TOPICS IN UPSC LAW SYLLABUS.
 - i. **UNDERSTANDING NOTES** : To introduce you into any topic. Serves as a primer.
 - ii. **COMPREHENSIVE NOTES** : It will encompass materials, from 5-6 standard and reference books, scientifically researched and arranged in a manner to ignite and prepare the minds of the law optional students to face the UPSC.
 - iii. **REVISION NOTES** : This will give you the gist of the comprehensive notes. This will come in handy just before your mains exams.
 - **BEST THING IS YOU CAN GET THE THREE TYPES OF NOTES : AS PER MICROPLANS.**

LAW OPTIONAL PLAN FOR 2018 : STARTS FROM MARCH 06TH OF 2017 – ENROLL YOURSELF NOW!

SMS TO 8903618144 <NAME> SPACE <BEST TIME TO CALL YOU>

- **NOTES WILL BE UPDATED WITH CURRENT AFFAIRS.**
- **NOTES WILL CONTAIN PREVIOUS YEAR UPSC QUESTIONS**

3. TEST-SERIES FOR LAW OPTIONAL IS INCLUDED IN THIS PACKAGE :

78% UPSC LAW OPTIONAL QUESTION PAPER 2016 WAS REFLECTED OUR PREMIUM LAW OPTIONAL TEST SERIES 2016.

FEATURES :

- 1. TOPIC-WISE**
- 2. SUBJECT-WISE**
- 3. PAPER-WISE**
- 4. FULL-LENGTH TEST (PAPER I & II)**

1. AROUND **25 TESTS** WILL BE CONDUCTED.
2. QUESTION PAPER WILL BE IN TUNE WITH *CURRENT AFFAIRS*.
3. SOLUTION WILL BE GIVEN TO YOU RIGHTAWAY.
4. EVALUATION WILL BE DONE WITHIN *48-72 HOURS* WITH INDIVIDUAL FEEDBACK FOR EVERY QUESTION.
5. EVALUATION REPORTS WITH *SPECIFIC REMARKS*.
6. YOU CAN TAKE ANY TEST AT **ANY TIME** UNTIL YOUR LAW OPTIONAL MAINS 2017.

CONTACT US :

1. OUR WEBSITE : www.lawxpertsmv.com
2. EMAIL ID : lawxpertsmv@gmail.com
3. GIVE US A CALL BACK REQUEST BY SMS OR EMAIL ID.
 - SMS TO 8903618144 <NAME> SPACE <BEST TIME TO CALL YOU>
 - EMAIL TO lawxpertsmv@gmail.com

LAW OPTIONAL FOR UPSC : FACTS AND MYTHS.

1. *WHY LAW OPTIONAL ?* Law optional, for UPSC, is high scoring with top success rate.
2. *IS LAW SYLLABUS VOLUMINOUS ?* Law is, as any another optional subjects, will have its pros and cons. Its syllabus is vast. No doubt about that. But still UPSC do not want you to mug up case laws or sections in the legislations.
3. *IS LAW OPTIONAL RISKY TO OPT FOR UPSC?* Not at all. Do not believe in myth that law optional is rare. Doubt it ? See for yourself at ANNUAL REPORT OF UPSC 2014-15.
4. *I AM NOT FROM LAW BACKGROUND. SHOULD I CHOOSE LAW ?* Law is a Technical subject. Law for UPSC is NOT TECHNICAL as it seems.
5. *WHY?* Because you are not expected to argue as a legal counsel for your client before the supreme court of India. You are ONLY expected to know the General principles of Law. Also, Ignorance of the law excuses no one.

LAW OPTIONAL PLAN FOR 2018 : STARTS FROM MARCH 06TH OF 2017 – ENROLL YOURSELF NOW!

SMS TO 8903618144 <NAME> SPACE <BEST TIME TO CALL YOU>

6. Our modules are, and will be, designed to cater both law and non-law students.

LAW OPTIONAL PLAN FOR 2018 : STARTS FROM MARCH 06TH OF 2017 – ENROLL YOURSELF NOW!

SMS TO 8903618144 <NAME> SPACE <BEST TIME TO CALL YOU>