

Unit 2. Panama Papers: Case of Tax Evasion by the Rich?

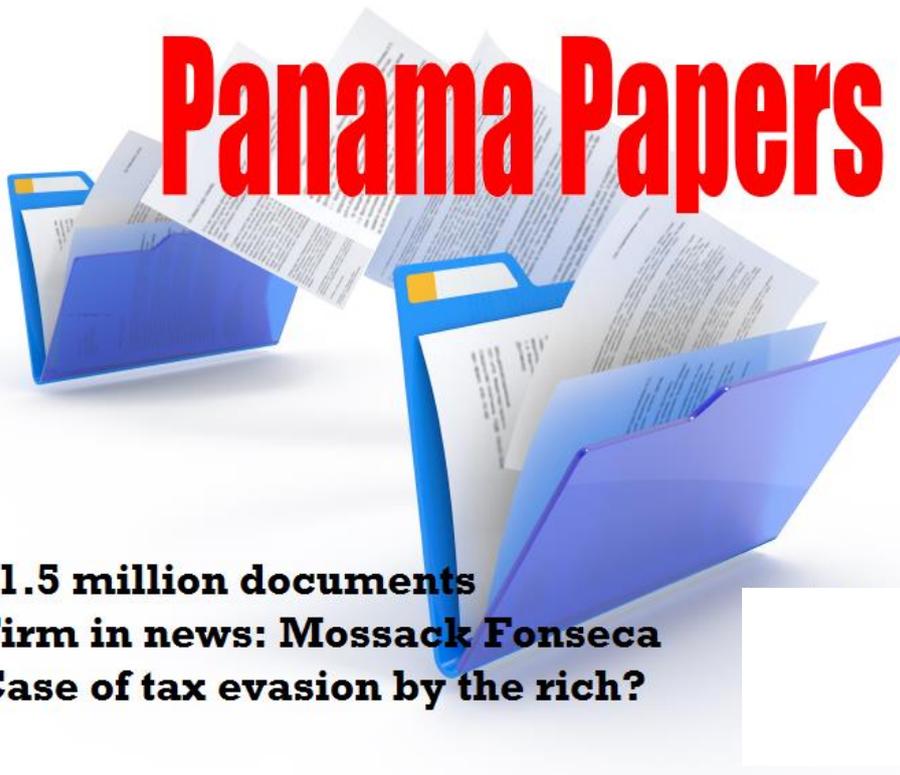
The Panama Papers are documents which were leaked from Mossack Fonseca, a Panama-based law firm offering legal and trust services. It is alleged that many of these documents show how wealthy individuals – including public officials – hide their money from public scrutiny.



Panama Papers: What is it?

- It is a set of 11.5 million documents that were leaked from a Panama-based corporate service provider Mossack Fonseca. (Note: Panama is a Central American country).
- It is considered as the biggest leak in the history, even bigger than the WikiLeaks and the Snowden leaks.
- The documents contain detailed information (including those of shareholders and directors, and even passport information!) about more than 2.14 lakh offshore companies listed by the agency.
- It is alleged that the agency facilitated the rich and influential people to hide their wealth from public scrutiny, and thus evade taxation in their domestic domains.
- The alleged perpetrators vary from current government leaders to public officials to close associates of various heads of the governments etc. The leak consists of data created between 1970s and late 2015.
- The data primarily comprises e-mails, PDF files, photos, and excerpts of an internal Mossack Fonseca database, covering a period from the 1970s to 2016.
- The Panama Papers leak provides data on some 214,000 companies with a folder for each shell firm that contains e-mails, contracts, transcripts, and scanned documents. The leak comprised over 4.8 million emails, 3 million database format files, 2.2 million PDFs, 1.2 million images, 320 thousand text files, and 2242 files in other formats.

Panama Papers



- * **11.5 million documents**
- * **Firm in news: Mossack Fonseca**
- * **Case of tax evasion by the rich?**

What does Mossack Fonseca do?

- Mossack Fonseca is the world's fourth largest offshore law firm. It was founded by German lawyer Jurgen Mossack in 1977, and later joined by Panamanian novelist/lawyer Ramon Fonseca.
- Its Services:
 - It specializes in commercial law, trust services, investor advisory, and international business structures.
 - It also offers intellectual property protection, wealth management and maritime law services.
 - More importantly its services include incorporating companies in offshore jurisdictions such as British Virginia Islands and helping in administering such firms, for a yearly fee.
 - Though it is based in Panama, it has operations and franchises worldwide, particularly in the tax havens like Switzerland, Cyprus, and British Virginia Islands (BVI) etc. It has so far acted for more than 3, 00,000 companies, including a lakh such companies in BVI alone.
 - It was also in news for Argentine money laundering controversy (K-Money); money laundering by German Commerzbank; its role in the Petrobras corruption scandal and more recently following the Panama Papers Leak.

How the leak was possible?

- The documents were made available to a Munich based newspaper Suddeutsche Zeitung, from early 2015 through encrypted channels, from an anonymous source who was using the pseudonym John Doe.

- It is said that the whistle blower didn't seek nothing but undisclosed security cover as compensation, as (s)he believed the company was involved in unethical business.
- The cache of information sized around 2.6 terabytes, and *Suddeutsche Zeitung* sought the help of the US based **International Consortium of Investigative Journalists (ICIJ)**. The consortium helped in distributing the documents for parallel investigation and analysis to around 107 media centres in 80-odd countries.

What is ICIJ?

- In 1997 International Consortium of Investigative Journalists, was launched by Center for Public Integrity, CPI (an American not-for-profit investigative journalism organisation. It won the Pulitzer Prize in 2014).
- It is based in Washington and includes around 165 investigative journalists from over 65 countries.
- Their main area of investigations include cross-border crime, corruption, accountability of the power etc.
- CPI's previous reports include those on
 - "Who's behind the financial Meltdown" 2009,
 - The Climate Change Lobby Explosion, 2009;
 - Tobacco Underground, 2010;
 - Secrecy for Sale: offshore accounts, 2013 to present.

Who are involved in the Leaked Papers?

- As per the disclosed papers, there are at least 12 national leaders among the 143 politicians or their family members or close associates, managing offshore firms, besides other famous personalities around the globe.
- Some of the more famous names are:
 1. Russian President Vladimir Putin's Best Friend, one Sergei Roldugin, is at the centre of a scheme in which money from Russian state banks is hidden offshore.
 2. Nawaz Sharif, the Pakistan Prime Minister's family (3 of his 4 children).
 3. Ayad Allawi, ex-interim Prime Minister of Iraq.
 4. Petro Poroshenko, the in-famous President of Ukraine. He had set up a secret off-shore company in British Virgin Islands. He didn't disclose any information about the firm, while serving as the President, and hence violates the country's constitution, says anti-corruption group Transparency International.
 5. Two cousins of the Syrian President Bashar al-Assad.
 6. Saudi King Salman Bin Abdulaziz Bin Abdulrahman al Saud held an 'unspecific role', in a Luxembourg based company.
 7. Ala Mubarak, son of Egypt's former President Hosni Mubarak.
 8. Sigmundur David Gunnlaugsson, Prime Minister of Iceland. He was elected after the 2008 banking collapse in Iceland and had pledged to clean up corruption in the banking system. Following the leak, he announced his resignation on April 5, even while vehemently opposing any wrong-doing.
 9. Brother-in-law of Chinese President Xi Jinping.

10. An offshore investment fund was run by British Prime Minister David Cameron's father.
11. Lionel Andres Messi, the football club Barcelona (FCB)'s forward and 5-time Ballon d'Or winner. His family has been accused of tax evasion.
12. Scandal also touches a key member of FIFA's Ethics Committee, Juan Pedro Damiani, banks like HSBC etc.
13. Indians involved: the Indian newspaper represented in ICIJ consortium is **The Indian Express**. The Indian names (so far) revealed by the newspaper include:
 - Aiswarya Rai: was director/share-holder of a now dissolved company based in British Virgin Islands.
 - Amitabh Bachchan: was director of one shipping firm in BVI and three in Bahamas.
 - Sameer Gehlaut, India bulls owner.
 - KP Singh, DLF Promoter.
 - Vinod Adani.
 - Two politicians Shishir Bajoria from West Bengal and Anurag Kejriwal of Delhi.

Note: The newspaper states that while RBI let individuals buy shares under LRS (Liberalised Remittance Scheme), it never allowed them to set up companies abroad, having clarified it through an FAQ mid-way in September 2010.

What is LRS?

- The legal framework for administration of foreign exchange transactions in India is provided by the Foreign Exchange Management Act, 1999.
- Under the Liberalised Remittance Scheme, all resident individuals, including minors, are allowed to freely remit up to USD 2,50,000 per financial year (April – March) for any permissible current or capital account transaction or a combination of both.
- There are no restrictions on the frequency of remittances under LRS. However, the total amount of foreign exchange purchased from or remitted through, all sources in India during a financial year should be within the cumulative limit of USD 2,50,000. Once a remittance is made for an amount up to USD 2,50,000 during the financial year, a resident individual would not be eligible to make any further remittances under this scheme, even if the proceeds of the investments have been brought back into the country.

While one is travelling abroad, on a private visit, (other than to Nepal and Bhutan), he can obtain foreign exchange up to an aggregate of USD 2,50,000 (only 3,000 as cash, rest as travellers cheque or banker's draft) in any financial year. This limit is also subsumed under LRS.

Are all people who use offshore structures crooks?

- Not quite.
- In fact, using such offshore structures and firms is entirely legal (and even promoted by many host countries).
- There could be legitimate reasons for such investments.

- Some use it to defend “raids” from criminals, or sometimes to get around hard currency restrictions or currency exchange restrictions.
- Sometimes firms are set up to make use of favourable tax or a bilateral treaty or a free trade agreement with another country.
- Others use offshore for reasons of inheritance or estate planning etc.

Are some people who use offshore structures crooks?

- Yes, more often than not, such offshore structures smacks wrong doing.
- Many a time such off shore business firms are set up in what is called as “Tax Havens”. The motive behind the same is multifarious.

What are Tax Havens?

- They are defined as those jurisdictions in which their banks provide services primarily to non-residents and they do not require the account holders to disclose information about them or their business, more than the bare minimum.
- Such jurisdictions offer the comfort of high privacy and opaque transactions, an impenetrable wall of secrecy.
- Tax havens are invariably low-tax regimes.
- Examples: Many of such jurisdictions are small island nations (and hence the name). Examples include British Virgin Islands, Panama, Bahamas, and Macao etc.
- Many of the firms registered in such jurisdictions are ‘Shell Companies’.

What are Shell Companies?

- A shell company has an outward appearance of being a legitimate firm, but it is nothing but an empty shell.
- It helps in managing the money involved within the company, while hiding who really owns the company.
- It is also called “letter-box company”, as consist of little more than an address to post to.
- So most obvious motive behind such off-shore firms in the tax havens is to avoid taxes, in the mother country.
- Thus such jurisdictions thus play an important role in large-scale money-laundering activities, corruption activities, terrorism funding, storing revenue from organised crimes etc.

What is money-laundering (in a nutshell...)?

It literally means laundering (cleaning) the dirty money, so that one can use it without evoking any suspicion. There are many ways to launder the money like using Bearer Bonds or paying for non-existent imports, or even buying toilet papers for a million Rupees (inflating the price).

What is Mossack Fonseca’s take on Panama Papers?

Their press release is as below:

Recent media reports have portrayed an inaccurate view of the services that we provide and, despite our efforts to correct the record, misrepresented the nature of our work and its role in global financial markets.

These reports rely on supposition and stereotypes, and play on the public's lack of familiarity with the work of firms like ours.

Conclusion:

The Panama Papers have evoked great interest from governments and civil society around the world. While some have used the opportunity to tar capitalism as a concept promoting crooks, the debate over bringing back the illicit money has gained more traction. The data is a shot in the arm for government of India as well, which was reeling without adequate information about black money abroad. The Government has done the right thing by constituting an inter-department investigation team to look into the veracity of the leaked papers. It would also be interesting to note whether the current dispensation has the spine to take action against the Who's Who of India.

