रजिस्ट्री सं॰ डी॰ एल॰—(एन)04/0007/2003—17 REGISTERED NO. DL—(N)04/0007/2003—17

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II — खण्ड 2
PART II — Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 6] नई दिल्ली, शुक्रवार, मार्च 10, 2017/फाल्गुन 19, 1938 (शक)
No. 6] NEW DELHI, FRIDAY, MARCH 10 , 2017/PHALGUNA 19, 1938 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 10th March, 2017:—

BILL NO. 251 OF 2016

A Bill further to amend the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Amendment Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section2.

2. In section 2 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 (hereinafter referred to as the principal Act),— 56 of 1971

(*i*) after clause (*b*), the following clause shall be inserted, namely:—

"(*ba*) 'audit' means examination of accounts, transactions and records by

the Comptroller and Auditor General in performance of its duties and exercise of powers under the Constitution of India and includes examination of the economy, efficiency and effectiveness in the application of funds;";

(*ii*) after clause (*c*), the following clause shall be inserted, namely:—

"(*ca*) '*prima facie*' means sufficient to establish a fact or raise a presumption unless disproved;".

Amendment of section 13.

3. In section 13 of the principal Act,—

(*i*) after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) to audit all receipts which are payable into the Consolidated Fund of India or of a State or of a Union territory having a Legislative Assembly and to satisfy himself that the rules and procedures in that behalf are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed;";

(*ii*) for the words "and in each case to report on the expenditure, transactions or accounts so audited by him", the words "and in each case to report on the audit conducted by him" shall be substituted.

Amendment of section 14.

4. In section 14 of the principal Act, in the Explanation to sub-section (*1*), for the words "seventy-five per cent", the words "fifty-one per cent" shall be substituted.

Amendment of section 15.

5. In section 15 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Where any grant or loan is given for any specific purpose from the Consolidated Fund of India or of any State or of any Union territory having a Legislative Assembly to any body or authority, not being a foreign State or international organisation, the Comptroller and Auditor General shall—

(*a*) scrutinise the effectiveness of the selection criteria or the conditions prescribed by the concerned Government or Governments for selecting appropriate bodies or authorities to carry out the specific purpose;

(*b*) scrutinise the procedures by which the sanctioning authority satisfies itself as to the fulfilment of the selection criteria or the conditions subject to which such grants or loans were given;

(*c*) audit the expenditure of the grant or loan given to the body or authority to ascertain whether it was utilised for the specific purpose for which it was sanctioned;

Explanation.— For the purposes of clauses (*b*) and (*c*), the Comptroller and Auditor General shall have the right to access, after giving reasonable previous notice, the books and accounts of that body or authority:

Provided that the President, the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be, may, where he is of opinion that it is necessary so to do in the public interest, by order, relieve the Comptroller and Auditor General, after consultation with him, from making any such scrutiny in respect of any body or authority receiving such grant or loan.".

6. For section 16 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 16.

"16. (*1*) Where the Union Government or a State Government enters, directly or indirectly, through an entity auditable under section 14 or 19, into any contractual agreement or any other arrangement with any body or authority for any specific purpose, and the contractual agreement or arrangement involve— Functions with respect to other bodies or authorities entering into contractual agreements with the Union or the States.

(*a*) the transfer of any asset or property controlled by the Government; or

(*b*) the right to use or modify or develop any asset or property controlled by the Government; or

(*c*) the right to levy charges on the users of any asset or property controlled by the Government; or

(*d*) the sharing of revenue or profit incurred or accrued, as the case may be, from the modification or development or use of any asset or property,

the Comptroller and Auditor-General shall—

(*i*) scrutinise the effectiveness of the selection criteria or the conditions prescribed by the concerned Government or Governments for selecting appropriate bodies or authorities to carry out the specific purpose;

(*ii*) scrutinise the terms and conditions of the contractual agreement or arrangement, especially with regard to accountability, sharing of information and allocation of risks between the Government or Governments and the body or authority;

(*iii*) for the purpose of clause (*d*), audit such accounts, receipts, expenditure and transactions of the body or authority as are *prima facie* related to the contractual agreement or arrangement to ensure that the interest of the concerned Government or Governments by way of sharing of cost, revenue or profit is protected.

Explanation.—For the purposes of scrutiny and audit under items (*ii*) and (*iii*), the Comptroller and Auditor General shall have the right to access, after giving reasonable previous notice, to the books and accounts of that body or authority.

(*2*) The Comptroller and Auditor General may, in accordance with regulations framed under this Act, dispense with the scrutiny or audit under sub-section (*1*) for certain classes of contractual agreements or arrangements keeping in view the value of the asset or property transferred or the amount of investment involved.".

7. For section 18 of the principal Act, the following sections shall be substituted, namely:— Substitution of new sections for section 18.

"18. (*1*) The Comptroller and Auditor General shall, in connection with the performance of his duties under this Act, have authority— Powers of Comptroller and Auditor-General in connection with audit of accounts.

(*a*) to require that any accounts, books, papers and other documents which deal with or form the basis of or are otherwise relevant to the audit or scrutiny to be conducted by him, be sent to such place as he may appoint for his inspection;

(*b*) to put such questions or make such observations as he may consider necessary to the person in charge of the office or establishment, by whatever name called, and to call for such information as he may require for the preparation of any account or report which it is his duty to prepare;

(*c*) to enter into and remain, at all reasonable times, on any premises occupied by—

(*i*) any entity to be audited under section 13, 14, 17 or 19, including treasuries and such offices, as are responsible for the keeping of initial or subsidiary accounts;

(*ii*) any entity to be audited or scrutinised under section 15 or 16, if so authorised by a warrant issued by the appropriate court under the provisions of the Code of Criminal Procedure, 1973; 2 of 1974.

(*d*) to examine or make copies of any document or record made available or obtained by him;

(*e*) to require any officer or employee of the entity being audited or scrutinised to—

(*i*) present himself at a specified date, time and venue;

(*ii*) give evidence or furnish any clarification, on oath or affirmation, either orally or in writing, that, in the opinion of the Comptroller and Auditor General it is expedient for carrying out the duties assigned to him under this Act.

(*2*) The Comptroller and Auditor General may reimburse such reasonable costs and expenses as may have been incurred by the officer or employee in complying with the directions under clause (*e*) of sub-section (*1*), after recovering such costs and expenses from the entity to which the evidence relates.

(*3*) The person in charge of any office or establishment, by whatever name called, the accounts of which have to be audited or scrutinised by the Comptroller and Auditor General, shall afford all facilities and comply with requests for information in as complete a form as possible and with all reasonable expedition within a period of not exceeding seven days.

Penalties for refusal of information by public authorities.

18A. (*1*) Any refusal, without reasonable cause, by a person who is required to provide records or documents or to give evidence or to furnish information or to comply with the directions of the Comptroller and Auditor General within a reasonable period specified by the Comptroller and Auditor General or such extended period as allowed by him, shall be treated as refusal of information.

(*2*) Notwithstanding anything in the Right to Information Act, 2005, the Comptroller and Auditor General, on refusal of information under sub-section (*1*), may make a reference to the Central Information Commission or the State Information Commission, as the case may be, if the entity being audited or scrutinised is a public authority as defined under the Right to Information Act, 2005. 22 of 2005.

(*3*) The Central Information Commission or the State Information Commission, as the case may be, shall have the power to consider such cases of refusal of information and impose penalties under the Right to Information Act, 2005.". 22 of 2005.

Substitution of new section for section 19A.

8. For section 19A of the principal Act, the following section shall be substituted, namely:—

Laying of reports before Parliament or the Legislature of the State.

"**19A.** (*1*) The reports of the Comptroller and Auditor General shall be submitted to the Government or the Governments concerned.

(*2*) The Central Government shall cause every report received by it under sub-section (*1*) to be laid before each House of Parliament within seven days if Parliament is in session, and if Parliament is not in session, within seven days of the first sitting of the next session.

(*3*) The State Government shall cause every report received by it under sub-section (*1*) to be laid before the Legislature of the State, within seven days if the Legislature of the State is in session, and if the Legislature of the State is not in session, within seven days of the first sitting of the next session.".

STATEMENT OF OBJECTS AND REASONS

The Comptroller and Auditor General of India (CAG) is one of the key pillars in the system of checks and balances envisaged under our Constitution. Since its institution in 1850, the reports of the CAG have highlighted several cases of misappropriation of public funds that were rightfully meant for the development of the nation.

Presently, the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971, better known as the Audit Act, governs the working of the CAG. However, the Act has not been amended to keep pace with changing times and is unable to address some of the key challenges being faced by the CAG today. This Bill aims to strengthen the office of the CAG and remove the impediments that hinder the performance of his duties.

The Bill essentially makes the following six provisions—

(1) Gives statutory backing to 'performance audits'

Performance audit, which is concerned with an evaluation of the efficiency and effectiveness of the application of funds, is the primary tool used by auditors to check if there has been any waste in the use of public money. This form of audit allows the auditor to question Government policy and decisions that led to inefficiency.

Performance audits were used by the CAG in his reports on the XIXth Commonwealth Games and the reports on the allocation of 2G spectrum and coal blocks, among others. Each report proved to be exceedingly incriminating. A mere accounting exercise would not have been able to unearth the issues highlighted by the CAG in these reports.

Presently, performance audits are not explicitly recognised under the existing Act. As a result, some parties have questioned the power of the CAG to pass judgement on the efficacy of Government policy. It is therefore critical that the power to conduct performance audits be explicitly codified in law.

(2) Brings contractual agreements and other partnership arrangements such as Public Private Partnership within the ambit of the CAG

Over the past few decades, especially after 1991, the role of the Government in India has been considerably redefined. The Government is now increasingly participating in newer ways with the private sector for better delivery of services. Several infrastructure projects are now undertaken in the Public Private Partnership (PPP) mode that involves transfer of valuable public assets (such as mines and oilfields), investment and/or revenue sharing between the Government and the private sector. Many of these newer structures are presently outside the ambit of the CAG. This reduces oversight and creates avenues for corruption. Therefore, the scope of the CAG's powers must be expanded to include such arrangements.

However, we must be careful of overreach. The expanded remit of the CAG should not deter participation of the private sector. Private enterprises are likely to be wary of excessive intrusiveness in their decision making processes, and rightly so. Moreover, the CAG may not have the required sectoral insight to question the commercial decisions taken by the management.

In this Bill, a balance has been sought. The power of the CAG has been restricted to the audit of transactions that are *"prima facie* related to the contractual agreement or arrangement to ensure that the interest of the concerned Government or Governments by way of sharing of cost, revenue or profit is protected."

(3) Gives additional powers to the CAG to seek accounts and information

The current Act does not prescribe any time limits for responding to CAG's requests for information. It does not prescribe any penalties either. Often, this is misused to avoid

scrutiny. Countries such as Australia and New Zealand pre-empt this by specifically empowering the CAG in this respect.

This Bill seeks to confer additional powers on the CAG to call for information, access premises, examine employees under oath and use penal provisions under the RTI Act for public entities. For private entities, the Bill also empowers CAG but requires it to go through existing legal channels such as seeking a warrant from the Courts before conducting any search and seizure operations. In this way, the rights of the private entities are also protected.

(4) Re-defines 'substantially financed' to bring more bodies within the ambit of the CAG

The current Act empowers the CAG to audit all expenditure of bodies that are 'substantially financed' from Government resources. A body is considered 'substantially financed' if seventy-five per cent. of its total expenditure is received from the Government and the amount received is greater than rupees twenty-five lakh. This Bill lowers the requirement to fifty-one per cent.

(5) Allows more scrutiny in cases where organisations receive loans or grants from the Government

To bring in more accountability and to limit the siphoning of public money, this Bill also empowers the CAG to (a) scrutinise the 'effectiveness' of the criteria used for selecting organisations; and (b) conduct limited audits to ascertain whether the money was spent on the tasks for which it was sanctioned.

(6) Prescribes time limits for laying reports of the CAG in the Legislature

Currently, Government often delay the tabling of reports which are politically inconvenient. The report of the CAG on the Delhi Metro Rail Corporation in 2008 was not tabled for a year. This Bill makes it mandatory for the Government to lay the reports of the CAG before Parliament or the State Legislature within seven days of the first sitting on commencement of the session.

Empowering the CAG is the first step in containing the menace of corruption that is increasingly becoming entrenched in our system. This Bill is a step in that direction.

NEW DELHI;
November 12, 2014.

BAIJAYANT PANDA

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 (1) OF THE CONSTITUTION

———

[Copy of letter No. 8(5)/B(R)/2015 dated 28 July, 2016 from Shri Arjun Ram Meghwal, Minister of State in the Ministry of Finance and Corporate Affairs to the Secretary General, Lok Sabha].

The President, having been informed of the subject-matter of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Amendment Bill, 2016 (*Amendment of section 13*, *etc.*) by Shri Baijayant Panda, M.P., has recommended the introduction of the Bill in Lok Sabha under article 117(1) of the Constitution.

BILL NO. 245 OF 2016

A Bill to provide for the protection of witnesses in criminal proceedings and to enhance the ability of a witness to give testimony in a judicial proceeding or to cooperate with law enforcement without fear of intimidation or reprisal.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Witness Protection Program Act, 2016.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definition.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*b*) "competent authority" means Member-Secretary of the National Legal Services Authority or the State Legal Services Authority, as the case may be;

(*c*) "family member" includes parents, spouse, siblings, children and grand children of the witness;

(*d*) "*in-camera* proceeding" means proceeding wherein the public and press are not allowed to participate;

(*e*) "National Legal Service Authority" means the National Legal Services Authority constituted under the Legal Services Authority Act, 1987; 39 of 1987.

(*f*) "State Legal Service Authority" means the State Legal Services Authority constituted under the Legal Services Authority Act, 1987; 39 of 1987.

(*g*) "threat analysis report" means a detailed report prepared by designated police officers of the District/Unit investigating the case reflecting the seriousness and credibility of the threat perception to a witness or his family members containing specific details about the nature of threats faced by the witness or his family members to their life, reputation or property;

(*h*) "witness" means any person, who possesses information or document about any crime regarded by the competent authority as being material to any criminal proceeding and who has made a statement or who has given or agreed to give evidence in relation to such proceeding;

(*i*) "witness protection application" means an application moved by the witness in the prescribed form before a competent authority for seeking Witness Protection Order; and

(*j*) "witness proteciton order" means an order passed by the competent authority detailing the steps to be taken for ensuring the safety of life, reputation or property of witness and his family members and shall include an interim order, if any, passed during the pendency of witness protection application.

Classification of witnesses.

3. For the purposes of this Act, the witnesses shall be classified into the following groups:—

(*a*) Group A—Where the threat extends to life of the witness or his family members;

(*b*) Group B—Where the threat extends to safety, reputation or property of the witness or his family members; and

(*c*) Group C—Where the threat is moderate and extends to harassment and intimidation of the witness or his family member's reputation or property, during the investigation process.

Process of availing protection.

4. (*1*) Every witness seeking protection shall, during the course of investigation of any offence, file a witness protection application for witness protection order at the court in which the proceedings are being heard or before the competent authority, as the case may be, in such manner as may be prescribed.

(2) The court or the competent authority, as the case may be, shall, upon receipt of an application under sub-section (*1*), call for the threat analysis report and, shall, upon receipt of report, evaluate the threat to the life, reputation or property of the witness or his family members or any other person, which it deems fit, to ascertain whether there is necessity to pass a witness protection order or not.

Appropriate Government to protect the witness.

5. (*1*) It shall be the duty of the appropriate Government to formulate measures to protect the witness.

(*2*) Without generality of the foregoing provisions, the witness protection measures shall be proportional to the threat and shall include—

(*a*) concealment of identity of the witness by referring to him with the changed name or alphabet;

(*b*) close protection and regular patrolling around the witness's place of residence;

(*c*) holding of *in-camera* trials, if necessary;

(*d*) avoidance of face-to-face contact between witness and accused during investigation or trial;

(*e*) allowing a support person to remain present during recording of statement and deposition of witness;

(*f*) provision of emergency contact persons for the witness;

(*g*) monitoring of mail and telephone calls of witness;

(h) installation of security devices such as security doors, Close Circuit Television (CCTV), alarms and fencing at the witness's place of residence;

(*i*) temporary change of residence of witness during investigation or trial;

(*j*) ensuring expeditious recording of deposition during trial on day-to-day basis without adjournments;

(k) awarding periodical financial aids or grants to the witness for the purpose of re-location and sustenance; and

(*l*) any other measure considered necessary and specifically those requested by the witness.

Duty to inform the witness of his rights.

6. It shall be the duty of the appropriate Government to ensure that the witness is made aware of his rights under this Act and ascertain that he may decide to exercise or not exercise the provisions and protections available to him under this Act.

Termination of protection under this Act.

7. (*1*) The protections under this Act shall be void and terminated if the Court establishes that the protectee gave false testimonies or deliberately misled the authorities and the court.

(*2*) If the protection of a protectee is terminated under sub-section (*1*), he shall be liable to be punished with imprisonment for a term which may extend up to six months and also fine which may extend up to two thousand rupees.

Central Government to provide requisite fund.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite sums to the appropriate Governments for carrying out the purposes of this Act.

Power to remove difficulty.

9. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after expiry of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Act not in derogation of other laws.

10. The provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force.

Power to make rules.

11. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

In recent years crime has grown considerably. Criminal elements are much more becoming stronger and diverse. They are engaging more and much frequently in systematic forms of cooperation designed to further their criminal activities. In the investigation and prosecution of crime, particularly the more serious and complex forms of organized crime, it is essential that witnesses, the cornerstones for successful investigation and prosecution, have trust in criminal justice systems. Witnesses need to have the confidence to come forward to assist law enforcement and prosecutorial authorities. They need to be assured that they will receive support and protection from intimidation and the harm that criminal groups may seek to inflict upon them in attempts to discourage or punish them from cooperating. The Supreme Court as well as the Law Commission have emphasized on the need for legislative measures for protection of witnesses.

Hence this Bill.

NEW DELHI;
July 5, 2016.

BAIJAYANT PANDA

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for installation of security devices like Closed Circuit Television Security doors alarms and fencing at winess' place of residence. It also provides for awarding periodical financial aids or grants to the witnesses. Clause 8 provides that the Central Government shall provide adequate funds to the State Governments for carrying out the purposes of the Act. The expenditure relating to States shall be borne out of the Consolidated Funds of respective States. The expenditure relating to Union territory shall be incurred from the Consolidated Fund of India. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees five hundred crore per annum would be involved from the Consolidated Fund of India.

A Non-recurring expenditure of about rupees ten crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Act. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 246 OF 2016

A Bill further to amend the Whistle Blowers Protection Act, 2011.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Whistle Blowers Protection (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 3.

2. In section 3 of the Whistle Blowers Protection Act, 2011 (hereinafter referred to as the principal Act),— 17 of 2014.

(*i*) after clause (*f*), the following clause shall be inserted, namely:—

"(*fa*) "injury" in relation to an employee of a company means any disadvantage including dismissal of an employee, alteration of an employee's position to his detriment or discrimination with an employee;"; and

(*ii*) after clause (*k*), the following clauses shall be inserted, namely:—

"(*l*) "State Vigilance Commission" means the Commission established by a resolution of the respective State Government; and

(*m*) "witness" means any person, who possesses information or document about any crime regarded by the competent authority as being material to any criminal proceeding.".

Amendment of section 8.

3. In section 8 of the principal Act, in sub-section (*1*), after clause (*b*), the following clause shall be added, namely:—

"(*c*) as might involve the disclosure of' the proceedings in a legal professional agreement between an advocate and a client.".

Amendment of section 12.

4. In section 12 of the principal Act, the words ", or witnesses," and the words "or the witnesses" shall be omitted.

Insertion of new Chapter VA.

5. In the principal Act, after Chapter V, the following Chapter and sections thereunder shall be inserted, namely:—

"CHAPTER VA

WHISTLE BLOWER WITNESS PROTECTION AND PROTECTION AGAINST INJURY

Classification of witnesses.

14A. For the purposes of this Act, the witnesses shall be classified into following groups—

(*a*) Group A—where the threat extends to life of the witness or his family members.

(*b*) Group B—where the threat extends to safety, reputation or property of the witness or his family members.

(*c*) Group C—where the threat is moderate and extends to harassment and intimidation of the witness or his family member's reputation or property, during the investigation process.

Appropriate Government to protect the witness.

14B. (*1*) It shall be the duty of the appropriate Government to formulate measures to protect the witness.

(*2*) Without generality of the foregoing provisions, the witness protection measures shall be proportional to the threat and shall include—

(*a*) concealment of identity of the witness by referring to him with the changed name or alphabet;

(*b*) close protection and regular patrolling around the witness's place of residence;

(*c*) holding of *in-camera* trials, if necessary;

(*d*) avoidance of face-to-face contact between witness and accused during investigation or trial;

(*e*) allowing a support person to remain present during recording of statement of deposition of witness; and

(*f*) such other measures as may be necessary to ensure safety of the witness.

Protection against injury of complainant.

14C. The Competent Authority, at any time after the making of disclosure by the complainant, if it is of the opinion that a company or a person has caused any injury to the person making the disclosure or to the complainant, shall —

(*a*) make an order requiring the company to compensate the complainant for loss, damage or injury caused as a result of reprisal or threat; or

(*b*) make an order requiring the company to reinstate the complainant in that position or a position at a comparable level; or

(*c*) make an order imposing a penalty not exceeding five lakh rupees and punishable with imprisonment for a term which may extend upto fifteen years or as may be applicable under any law for the time being in force.

Establishment of Public Interest Disclosure Protection Tribunal.

14D. For the purposes of sections 14B and 14C, the Central Government shall, by notification, establish a tribunal, to be known as the Public Interest Disclosure Protection Tribunal to exercise such powers and authority as may be conferred on it by law made by Parliament in this behalf.

Constitution of Witness Protection Fund.

14E. For the purposes of sections 14B and 14C, the Central Government shall, by notification, constitute a Fund to be known as the Witness Protection Fund to which shall be credited funds from the Central Government, fines deposited in courts and donations or contributions from institutions and private individuals .".

STATEMENT OF OBJECTS AND REASONS

The Whistle Blowers Protection Act, 2011 (17 of 2014) was enacted to provide protection from harassment to persons making disclosure of corruption, willful misuse of power or arbitrary use of discretion of any power by any public servant, besides keeping the identity of the whistle-blowers secure. However, the Act lacks specific provisions and administrative set-up to protect whistle-blowers witnesses against physical attacks and any other reprisals. Further, the compulsory identification of the complainant is causing a detriment to many. Thus, it has become necessary to amend the parent Act to address the above shortcomings.

Hence this Bill.

NEW DELHI;
July 5, 2016.

BAIJAYANT PANDA

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides that Central Government shall establish Public Interest Disclosure Protection Tribunal to protect the whistle-blowers witnesses and settle the disputes between employee and a company at the earliest. It also provides that Central Government shall constitute the Witness Protection Fund to release funds to protect the whistle-blower witnesses. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees three hundred crore would be involved as recurring expenditure per annum.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

BILL NO. 293 OF 2016

A Bill to provide for the protection of patients and medical practitioners from criminal offences arising from withdrawing life-saving procedures or assisting for the right of a dignified death.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Treatment of Terminally-ill Patients Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "adult"means an individual who is of eighteen years of age or more;

(*b*) "advance medical directive" (called living will) means a directive given by a person that he shall or shall not be given medical treatment in future when he becomes terminally-ill;

(*c*) "attending medical practitioner" means a physician who has primary responsibility for care of the patient and treatment of the patient's terminal disease;

(*d*) "competent patient" means a patient who is not an incompetent patient;

(*e*) "incompetent patient" means a patient who is a minor below the age of sixteen years or a person of unsound mind or a patient who is unable to—

(*i*) understand the information relevant to an informed decision about his medical treatment;

(*ii*) retain that information;

(*iii*) use or weigh that information as part of the process of making his informed decision;

(*iv*) make an informed decision because of impairment of or a disturbance in the functioning of his mind or brain; or

(*v*) communicate his informed decision (whether by speech, language or any other mode) as to medical treatment.

(*f*) "independent medical practitioner"means a physician who has been consulted about the attending medical practitioner's intention to terminate life on request or to provide assistance with suicide;

(*g*) "informed decision" means a decision by a competent patient, to request and obtain a prescription to end his life in a humane and dignified manner, that is based on an appreciation of the relevant facts and after being fully informed by the attending medical practitioner of—

(*i)* his medical diagnosis;

(*ii*) his prognosis;

(*iii*) the consequences of remaining untreated;

(*iv*) the potential risks associated with taking the medication to be prescribed;

(*v*) the probable result of taking the medication to be prescribed; and

(*vi*) the feasible alternatives, including, but not limited to, palliative care, hospice care and pain control.

(*h*) "medical power-of-attorney" means a document of decisions in future as to medical treatment which has to be given or not to be given to a person if he becomes terminally-ill and becomes an incompetent patient;

(*i*) "medical practitioner" means a medical practitioner who possesses any 'recognized medical qualification' as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956 and who is enrolled on a 'State Medical Register' as defined in clause (k) of that section; 102 of 1956

(*j*) "medical treatment" means treatment intended to sustain, restore or replace vital functions which, when applied to a patient suffering from terminal illness, would serve only to prolong the process of dying and includes—

(*i*) life-sustaining treatment by way of surgical operation or the administration of medicine or the carrying out of any other medical procedure; and

(*ii*) use of mechanical or artificial means such as ventilation, artificial nutrition and hydration and cardiopulmonary resuscitation.

(*k*) "medically confirmed" means the medical opinion of the attending medical practitioner has been confirmed by an independent medical practitioner who has examined the patient and the patient's relevant medical records;

(*l*) "minor" means a person who, under the provisions of the Indian Majority Act, 1875 is to be deemed not to have attained majority; 4 of 1875

(*m*) "palliative care" includes—

(*i*) the provision of reasonable medical and nursing procedures for the relief of physical pain, suffering, discomfort or emotional and psycho-social suffering; and

(*ii*) the reasonable provision for food and water.

(*n*) "patient" means a patient who is suffering from terminal illness; and

(*o*) "terminal illness" means—

(*i*) an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgement, cause death within six months; or

(*ii*) which has caused a persistent and irreversible vegetative condition under which no meaningful existence of life is possible for the patient

Refusal of medical treatment by competent patient or physician-assisted suicide.

3. (*1*) Every patient including minor aged above sixteen years shall have the right to take a decision and express his desire to the attending medical practitioner attending to him—

(*i*) for withholding or withdrawing of medical treatment to himself; or

(*ii*) to intentionally assist him to commit suicide by providing him with the means to do so.

(2) When a patient referred to in sub-section (1) communicates his decision to the attending medical practitioner, such a decision shall be binding on the medical practitioner if the following conditions are fulfilled:—

(*i*) the attending medical practitioner is satisfied that the patient is a competent patient and that the patient has taken an informed decision based upon a free exercise of his free will;

(*ii*) the medical opinion of the attending medical practitioner has been confirmed by a panel of three independent medical practitioners who have examined the patient and the patient's past medical records:

Provided that if there is difference in the opinion of the three independent medical practitioners, the majority opinion shall prevail; and

(*iii*) in the case of a minor above sixteen years of age, the consent has also been given by his parents.

(3) In the case of an incompetent patient or a competent patient who has not taken an informed decision, the attending medical practitioner may take a decision referred to in clause (*i*) or (*ii*) of sub-section (*1*) provided—

(*i*) the attending medical practitioner is of the opinion that the medical treatment to a patient should be withheld or withdrawn; or

(*ii*) the attending medical practitioner in his medical opinion suggests assisted-suicide for the patient with a humane and dignified death;

and the medical opinion of the attending medical practitioner is backed by a panel of three independent medical practitioners who have examined the patient and the patient's past medical records:

Provided that if there is difference in the opinion of the three independent medical practitioners, the majority opinion shall prevail; and

(*iii*) the High Court having territorial jurisdiction has granted permission in accordance with section 6.

(4) The attending medical practitioner shall, while taking a decision under sub-section (*3*),—

(*i*) adhere to guidelines as may have been issued by the Medical Council of India in this regard; and

(*ii*) consult the parents or relatives, if any, of patient but shall not be bound by their views.

(*5*) Before proceeding further to give effect to the request of the patient, the attending medical practitioner must inform the patient that he may rescind the request at any time and in any manner.

Advance medical directives and medical power-of-attorney.

4. Every advance medical directive (called living will) or medical power-of-attorney executed by a person shall be binding on the attending medical practitioner during the course of medical treatment of the patient.

Role of the attending medical practitioner.

5. (*1*) On completion of conditions laid down in section 3, the attending medical practitioner shall—

(*i*) complete the medical record documentation requirements stipulated by the Medical Council of India;

(*ii*) begin the process of getting clearance from the Medical Council of India for actions under clause (*i*) or (*ii*), as the case may be, of sub-section (*1*) of section 3; and

(*iii*) ensure confidentiality of all documents and medical records of the patient.

(*2*) Upon receipt of clearance for action under clause (*i*) of sub-section (*1*) of section 3 from the Medical Council of India, the attending medical practitioner shall withhold or withdraw medical treatment to a patient to end his life in a humane and dignified manner.

(*3*) Upon receipt of clearance for action under clause (*ii*) of sub-section (*1*) of section 3 from the Medical Council of India, the attending medical practitioner shall—

(*i*) prescribe the medication that would end the life of the patient in a humane and dignified manner; and

(*ii*) ensure that the patient commits suicide in the presence of a witness other than the attending medical practitioner himself.

Procedure for permission from the High Court.

6. (*1*) On completion of conditions laid down in section 3, any near relative, next friend, legal guardian of patient, the attending medical practitioner or any other person may apply to the High Court having territorial jurisdiction for granting permission to the attending medical practitioner for withholding or withdrawing of medical treatment to the patient or assist in suicide of an incompetent patient or a competent patient who has not taken an informed decision.

(*2*) The application under sub-section (*1*) shall be treated as original petition and the Chief Justice of the High Court shall assign the same to a Division Bench without any loss of time for disposal within fifteen days.

(*3*) For the purpose of deciding on the application, the Division Bench shall appoint an Expert Committee of three members comprising a medical practitioner, a legal expert and an expert on moral or ethical issues in such manner as may be prescribed.

(*4*) The Expert Committee shall give its recommendations within one week of its constitution.

(*5*) The Division Bench of the High Court shall, having due regard to the recommendations of the expert Committee and the wishes of close relations, namely, spouse, parents, major children or in their absence, such other persons as the High Court deems fit to put on notice and on consideration of the best interests of the patient, pass orders granting or refusing to grant permission or granting permission subject to any condition.

Protection of competent patients from criminal action.

7. Notwithstanding anything contained in the Indian Penal Code, 1860, a patient seeking action under section 3 shall not be deemed to be guilty of any offence under the Indian Penal Code or any other law for the time being in force. 45 of 1860

Protection of attending medical practitioner from criminal action.

8. Any action of the attending medical practitioner or any other person acting under the direction of the attending medical practitioner on the express desire of a patient under section 3, shall be deemed to be a lawful action.

Guidelines by Medical Council of India.

9. (*1*) For the purposes of this Act, the Medical Council of India shall, from time to time,—

(*i*) prepare and issue guidelines for the use of medical practitioners; and

(*ii*) issue documentation requirements to be followed by medical practitioners.

(*2*) The guidelines and documentation requirements under sub-section (*1*), shall be published in the Gazette of India and on the website of the Medical Council of India.

Power to make rules.

10. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

In a 2015 report by the Economist Intelligence Unit, it was found that India was one of the worst 15 countries in the world to die in, coming 67th out of 80 in "quality of death". We have treated persons with terminally-ill diseases, less as human beings that afford a humane and dignified death, but as innate objects that must be treated despite irreversible or incurable medical conditions.

This Bill hopes to allow a terminally-ill individual a dignity even in his last months, when one should be with his or her family, rather than be isolated from their loved ones in an intensive care unit. The Bill codifies passive euthanasia in a more or less similar manner as the Hon'ble Supreme Court in its 2011 judgement in the case of *Aruna Ramachandra Shanbaug vs. Union of India.* Moreover, this Bill recognizes Living Wills and medical power-of-attorney, measures that allow a patient to make decisions before the consequences of severe health conditions kick in.

Lastly, the Bill lays down a careful procedure for allowing for assisted suicide in the case of terminally-ill patients. This Bill incorporates safeguards that will protect both the patient and the medical practitioner and preserve the essential right to a dignified death.

The Bill seeks to achieve the above objective.

NEW DELHI; BAIJAYANT PANDA

July 25, 2016

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides that for the purpose of deciding on the application seeking death for terminally ill patient, the Division Bench of the High Court concerned shall appoint an Expert Committee of three members comprising a medical practitioner, a legal expert and an expert on moral or ethical issues. The expenditure in this regard shall be met out of the budgetary grants of the concerned High Court. In the case of Union territories, the Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to give the exact amount of expenditure that would be involved as it would depend on number of applications under section 6. However, a recurring expenditure of about rupees ten crores per annum would be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules relate to matters of detail only, the delegation of legislative power is of a normal character.

Bill No. 319 of 2016

A Bill to provide for social security and welfare measures to orphan children and for matters connected therewith.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Orphan Child (Provision of Social Security) Act, 2016. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*b*) "child" means a child who has not completed the age of eighteen years;

(*c*) "foster care home" means foster care home established under section 8; and

(*d*) "orphan child" means a child who has been abondoned or has lost both parents or whose parents' identity is not known and includes a child who is not part of a family either natural or foster;

(*e*) "prescribed" means prescribed by rules made under this Act.

Central Government to conduct survey of orphan children.

3. *(1)* The Central Government shall, in consultation with State Governments, conduct and publish the survey of orphan children after every ten years alongwith census.

(*2*) The survey conducted under sub-section (*1*) shall include—

(*a*) socio-economic status of orphan children;

(*b*) data on the cause and effect of becoming orphans;

(*c*) Demographic profile of orphan children; and

(*d*) performance appraisal of existing orphan children welfare schemes and programmes.

National policy for welfare of orphan children.

4. *(1)* The Central Government shall, within one year of the publication of the survey under section 3, formulate a National Policy for the welfare of orphan children.

(*2*) Without prejudice to the generality of the foregoing provisions, the National Policy referred to in sub-section (*1*) may provide for—

(*a*) placing orphan children in a family setting either through reunion with their natural parents or relatives or through adoption by foster ones;

(*b*) establishment of a robust system of institutional care for orphan children who are unable to be reintegrated in a family setting;

(*c*) evolution of a preventive approach to the phenomenon of children becoming orphans;

(*d*) development of a tracking system for identification of families of abandoned children to facilitate reunification;

(*e*) development of psychological and other support system to prevent abandoning of children by parents due to poverty, deprivation and other such factors;

(*f*) universalising the Cradle Baby Reception Centre scheme and its mandatory inclusion in every public health centre in the country;

(*g*) counselling facilities at the Cradle Baby Reception Centres to link parents to relevant welfare schemes;

(*h*) simplification and reform of the adoption system by foster parents;

(*i*) conducting awareness campaigns in high risk districts informing the parents about the Governmental assistance;

(*j*) training and capacity building to health workers to cater to the complex psychosocial needs of orphan children;

(*k*) specialised attention to orphan children suffering from vulnerable diseases like HIV and other communicable diseases and to orphan children living in militancy and naxal affected areas;

(*l*) post-institutional support to ensure education, skill training and livelihood to orphan children;

(*m*) grants-in-aid to foster care homes and Non-Governmental Organisations working for the orphan children;

(*n*) stringent monitoring of foster care institutions to prevent any kind of emotional, physical or sexual abuse of orphan children;

(*o*) Strict and Swift punishment to child abusers in foster care institutions;

(*p*) issuance of single and multi-purpose 'orphan certificate' containing therein, if available, such information as date of birth, nativity, parental status and family surname to ensure enjoyment of legal rights, entitlements and benefits;

(*q*) linkage of all orphan-related agencies such as cradle baby centres, adoption centres and foster care homes with authorities that issue orphan certificates;

(*r*) promoting awareness about legal rights and entitlements of orphan children; and

(*s*) such other provisions as may be deemed necessary and expedient for carrying out the purposes of this Act.

Appropriate Government to implement the National policy.

5. It shall be the duty of the appropriate Government to implement the National Policy for welfare of orphan children formulated under section 4.

Constitution of an Orphan Children Welfare Fund.

6. (*1*) The Central Government shall, as soon as may be, by notification in the Official Gazette, constitute a Fund to be known as the Orphan Children Welfare Fund for the purposes of this Act with an initial corpus of rupees two thousand crores, to be provided by the Central Government, after due appropriation made by Parliament by law in this behalf.

(*2*) The Fund shall also include,—

(a) contributions made by the Central Government and State Governments in such ratio, as may be prescribed;

(b) money received by way of donations, contributions, assistance or otherwise from individuals, body corporates, domestic and foreign financial institutions.

(3) The contributions to the Fund by the private institutions shall be exempted from income tax and such institutions shall be provided such fiscal incentives by the Central Government, as may be prescribed.

(*4*) The Fund shall be utilised for rehabilitation and welfare of orphan children in such manner as may be prescribed.

Reservation in Educational Institutions and in posts and services.

7. There shall be three *per cent.* reservation in educational institutions and in posts and services under the Central Government for orphan children.

Establishment of foster care homes.

8. *(1)* The appropriate Government shall establish such number of foster care homes as may be necessary for the purposes of this Act.

(2) The foster care homes established under sub-section (*1*) shall provide free of cost boarding and lodging and such other facilities to the orphan children as may be prescribed.

Nodal officer to ensure welfare schemes in every district.

9. (*1*) The appropriate Government shall designate a nodal officer in every district to ensure effective implementation of all the schemes and policies meant for welfare of orphan children;

(*2*) Every nodal officer shall submit to the appropriate Government an annual report containing such details, as may be prescribed, of welfare measures provided to orphan children in the district.

(*3*) The appropriate Government shall, if satisfied that schemes and policies are not being implemented properly, remove from the office, the nodal officer for dereliction of duty:

Provided that no criminal proceedings shall be initiated against the nodal officer who is removed from office.

Central Government to provide funds.

10. The Central Government shall, after due appropriation made by Parliament, by law in this behalf, provide adequate funds to the State Governments for carrying out the purposes of this Act.

Overriding effect of the Act.

11. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act not in derogation of any other law.

12. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

13. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session, or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

At present there is no comprehensive legislation or policy that addresses the issues faced by orphan children in India. As a result of this they face several difficulties. The foremost difficulty in this regard is lack of identity. This causes many problems in daily civic life and acts as a barrier to access public services and benefits of Government schemes and entitlements.

The lack of identity proof touches upon a more fundamental issue regarding orphan children. The present Bill seeks to provide for formulation of a comprehensive legislation covering the needs of orphans, in general, but focuses primarily upon the needs of the orphan children who are at high risk of abuse, exploitation and neglect. Moreover, being a welfare State, it is obligatory upon the State to provide care, shelter and succor to this tender and helpless category of society.

Hence this Bill.

NEW DELHI;
August 7, 2015.

VINOD KUMAR BOIANAPALLI

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117(1) AND 117(3) OF THE CONSTITUTION OF INDIA

[Copy of letter No. 31/117/2015-CW-I dated 31 October, 2016 from Shrimati Maneka Sanjay Gandhi, Minister of Women and Child Development to the Secretary General, Lok Sabha].

The President, having been informed of the subject matter of Orphan Child (Provision of Social Security) Bill, 2016 by Shri Vinod Kumar Boianapalli, Member of Parliament, recommends to the Hosue the introduction and the consideration of the Bill under articles 117(1) and 117(3) of the Constitution, respectively.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for survey of orphan children. Clause 4 provides for formulation of a national policy for the welfare of orphan children. Clause 6 provides for constitution of an Orphan Children Welfare Fund. Clause 8 provides for establishment of foster care homes to provide free food, lodging and other requisite amenities to orphans. Clause 10 provides that the Central Government shall provide adequate funds to the State Governments for carrying out the purposes of the Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two thousand crore would be involved as recurring expenditure per annum.

A non-recurring expenditure of about rupees twenty thousand crore is also likely to be involved.

———

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules to be made relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 36 OF 2017

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2017. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 134 of the Constitution, in clause (*1*), after sub-clause (*b*), the following sub-clauses shall be inserted, namely:— Amendment of article 134.

"(*ba*) has confirmed the sentence of death of an accused person; or

(*bb*) has enhanced the sentence of an accused person to a sentence of death; or

STATEMENT OF OBJECTS AND REASONS

Article 134 of the Constitution lays down the appellate jurisdiction of the Supreme Court in criminal matters. Presently article 134 (1) (a) and (b) provide for a mandatory appeal before the Supreme Court where the High Court reverses an order of acquittal of an accused person and sentences him to death, and where the High Court withdraws for trial before itself a case from any subordinate Court and in such trial sentences the person to death. A mandatory appeal does not lie where the High Court either confirms a death sentence by the Sessions Court or enhances a sentence to sentence of death. Therefore appeals from such cases are ordinarily preferred under article 136 by way of Special Leave Petitions (SLPs). However, article 136 confers the Court with discretionary powers, and therefore the Court may dismiss such death sentence cases *in limine, i.e.* without admitting it for a hearing on merits, or without recording reasons for such dismissal.

According to the Death Penalty India Report by National Law University, Delhi, there have been nine cases of *in limine* dismissals in death penalty SLPs since 2004. A report entitled "Lethal Lottery" by Amnesty International and People's Union for Civil Liberties which studied the Supreme Court judgments in death penalty cases between 1950 to 2006 also notes that a large number of SLPs have been dismissed *in limine*.

Further, in September, 2014, a Constitution Bench in Mohd. Arif Ashfaq *vs*. The Registrar; Supreme Court (2014) 9 SCC held that all Review Petitions in death sentence cases must be heard in open court. It was held that such cases belong to a distinct category owing to the irreversibility of the punishment, and that different judicially trained minds can come to diametrically opposite conclusions on the same set of facts. Review jurisdiction of the Supreme Court under article 137 of the Constitution succeeds special leave jurisdiction under article 136. It is, therefore, anomalous that death sentence SLPs under article 136 may be dismissed *in limine* without reasons being recorded, while Review Petitions in this category are required to be heard in open court. Without a reasoned order in a death sentence in a SLP, the open court hearing of review petitions as contemplated in Mohd. Arif Ashfaq case will be rendered meaningless.

The 187th Law Commission Report on Mode of Execution of Death Sentence and Incidental Matters recommends a statutory right to appeal before the Supreme Court in all death sentence matters, especially given that such right of appeal is conferred in many legislations pertaining to civil cases. It argued that the death penalty is qualitatively different because of its irreversibility and its imposition has serious consequences. The 262nd Law Commission Report on the Death Penalty supported this recommendation in light of the scope of error inherent in the criminal justice system.

The present Bill thus seeks to amend article 134 (1) to expand the appellate jurisdiction of the Supreme Court to provide for mandatory appeals when death sentences are confirmed, and when sentences are enhanced to the death penalty by High Courts. The expansion of the Court's powers will ensure that every case in which the death sentence is in question is heard and disposed off as a criminal appeal.

The death penalty is a unique punishment in that it is irreversible, and therefore the procedure administering it must comply with due process envisaged under article 21 of the Constitution, which is violated by *in limine* dismissals. It is imperative that the Supreme Court in its appellate jurisdiction has every opportunity to reappreciate evidence and sentencing in all death sentence cases.

Hence this Bill.

NEW DELHI;
February 9, 2017.

VINOD KUMAR BOIANAPALLI

BILL NO. 33 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2016. Short title.

2. In article 309 of the Constitution, after the existing proviso, the following proviso shall be added at the end, namely:— Amendment of article 309.

"Provided further that every rule made in respect of services and posts in connection with the affairs of the Union shall be laid, as soon as may be after it is made before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

STATEMENT OF OBJECTS AND REASONS

Article 309 of the Constitution provides for recruitment and conditions of service of persons serving the Union or State. Whenever an Act provides for framing of rules for carrying out the purposes of that Act, there is also a provision in the Act for laying of those rules before each House of Parliament and such rules are subject to modification or annulment by Parliament. However, the rules made under article 309, due to lack of laying provisions, are not laid on the Table of the Houses. Consequently, such rules escape the scrutiny of the Parliament.

The Bill, therefore, proposes to amend article 309 of the Constitution to include the provision for laying of rules regulating the recruitment and conditions of service of persons serving in connection with the affairs of the Union before each House of Parliament.

Hence this Bill.

NEW DELHI;
February 8, 2016.

P. KARUNAKARAN

BILL NO. 46 OF 2016

A Bill to provide for measures for the protection and welfare of working elephants and for matters connected therewith.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Working Elephants (Protection and Welfare) Act, 2016.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*i*) "Board" means the Working Elephants Protection and Welfare Board constituted under section 3;

(*ii*) "Fund" means the Working Elephants Protection and Welfare Fund constituted under section 6;

(*iii*) "*mahout"* means any person who is responsible for driving, training or taking care of an elephant;

(i*v*) "prescribed" means prescribed by rules made under this Act; and

(*v*) "working elephant" means any elephant which is domesticated and put to work for earnings by any person or institution by whatever name called.

Working Elephants Protection and Welfare Board.

3. *(1)* The Central Government shall, by notification in the Official Gazette, constitute a Board to be known as the Working Elephants Protection and Welfare Board for carrying out the purposes of this Act.

(2) The Board shall consist of—

(i) an eminent person having special knowledge or practical experience in the field of animal sciences or a veterinary doctor,	Chairperson;
(*ii*) the Secretary to the Government of India in charge of the Ministry of Environment, Forest and Climate Change;	*ex-officio* member-Secretary;
(*iii*) the Secretary to the Government of India in charge of the Ministry of Finance,	member;
(iv) two persons representing the owners of timber depots where working elephants are engaged in work,	member;
(v) two persons representing the owners of circus companies where working elephants are engaged in work,	member;
(vi) two persons representing the zoological gardens situated in various parts of the country,	member;
(vii) three persons representing the places of worship of various faiths where working elephants are engaged for any purpose,	member;
(viii) ten persons representing the State having largest population of working elephants,	member;
(ix) five persons representing the working elephant owners,	member; and
(x) one person representing the mahouts,	member.

to be nominated by the Central Government in such manner as may be prescribed.

(3) The salary and allowances payable to, and other terms and conditions of service of the Chairperson and other members of the Board, shall be such as may be prescribed.

Powers of the Board.

4. Notwithstanding anything contained in any other law for the time being in force, the Working Elephants Protection and Welfare Board shall have the power to take steps for effective implementation of the provisions of this Act.

Functions of the Board.

5. The Board shall—

(i) cause to conduct study on the problems relating to working elephants and suggest measures to overcome them;

(ii) create infrastructure for better healthcare of the working elephants and for their transportation from one place to another;

(iii) provide for better care and maintenance of working elephants through measures such as inserting electronic chips in their body which shall keep a complete record of life history, health and movement of working elephants;

(iv) provide special sanctuaries for working elephants and deploy experts in animal science and veterinary doctors in such sanctuaries to ensure that elephant population is sustained and enhanced;

(v) work in close collaboration with States having high population of working elephants and creation of facilities including facilities for proper food, drinking water and sanitation for the working elephants;

(vi) create awareness among public to treat domesticated elephants in just and friendly manner;

(vii) prescribe guidelines regarding training, pay and conditions of service of mahouts; and

(viii) provide for welfare measures for working elephants when they get old and are not able to work.

Working Elephants Protection and Welfare Fund.

6. *(1)* The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the Working Elephants Protection and Welfare Fund with a corpus of rupees two thousand and five hundred crore.

(2) The Central Government, the State Governments and the working elephant owners shall contribute to the Fund in such ratio as may be prescribed.

(3) Such other sums as may be received by way of donation, contribution or assistance from individuals, organisations or otherwise shall also be credited to the Fund.

Power to make rules.

7. (*1*) The Central Government may make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

India inhabits around 50 *per cent.* of the wild elephants and 20 *per cent.* of captive elephants in Asia. In India, the elephants have been an inseparable part of the religion and the cultural heritage of the country for many centuries. The domestication of elephants in India dates back to many centuries, from Indus Valley Civilisation to Vedic period of Indian history. During the medieval period of Indian history, elephants were considered as symbol of superior army, gallantry as well as status in the society. With the domestication of elephants, their role as worker also came into being and elephants were assigned jobs which were not possible by human apart from being part of the army. The working elephants still forms part of our society in various regions of the country. Consequently, it is now time to recognise the contribution of the working elephants and to give them adequate care and protection.

To role of State in this context becomes utmost important and the State should endeavour to provide for protected sanctuaries for these animals to rest and also for breeding for certain number of months every year, among other things.

The Bill, therefore, proposes to constitute a Board as well as a separate Fund for the welfare of the working elephants recognising the need for their protection and providing them with better conditions while at work or otherwise.

NEW DELHI;
February 8, 2016.

P. KARUNAKARAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of a Working Elephants Protection and Welfare Board. Clause 5 provides that the Board shall undertake certain welfare measures for working elephants. Clause 6 provides for constitution of Working Elephants Protection and Welfare Fund. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees five hundred crore per annum would involve from the Consolidated Fund of India. A non-recurring expenditure of rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 32 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2016.

Amendment of article 80.

2. In article 80, in clause (*3*), after the word 'art', the word ‘, sports’ shall be inserted.

STATEMENT OF OBJECTS AND REASONS

Sporting activities have gained more recognition as separate area of excellence over the years at the international level. However, in India much needs to be done to bring sporting activities in the forefront. Though efforts are being made to give due importance to sports but more and more steps are required to be taken in various arenas connected to different kind of sports. In order to recognise the achievements and honour the excellence in the field of sports as well as to address problems and needs of the sportspersons, there is a need to give representation to outstanding persons in the field of sports in Parliament.

The Bill, therefore, seeks to amend article 80 of the Constitution to include 'sports' as an area of excellence for nominating persons with outstanding contribution in sports to the Rajya Sabha.

Hence this Bill.

NEW DELHI;
February 8, 2016.

P. KARUNAKARAN

BILL NO. 21 OF 2016

A Bill to amend the Academy of Scientific and Innovative Research Act, 2011.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, and commencement.

1. (*1*) This Act may be called the Academy of Scientific and Innovative Research (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new section 39.

2. In the Academy of Scientific and Innovative Research Act, 2011, after section 38, the following section shall be inserted, namely:—

Statute and Ordinance to be published in the Official Gazette and to be laid before Parliament.

"39. (*1*) Every Statute or Ordinance made under this Act shall be published in the Official Gazette.

(*2*) Every Statute or Ordinance made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute or Ordinance or both Houses agree that the Statute or Ordinance should not be made, the Statute or Ordinance shall thereafter have effect only in such modified form or be no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute or Ordinance.".

STATEMENT OF OBJECTS AND REASONS

The Academy of Scientific and Innovative Research was established under the Academy of Scientific and Innovative Research Act, 2011 to provide for research in areas which are not ordinarily taught in regular academic universities in India by disseminating advanced knowledge in science and technology, and by providing teaching and research facilities in frontline branches of learning in emerging areas. However, to make the Statues and Ordinances available and accessible to public, it is necessary that the Statutes and Ordinances are published in Gazette of India and laid before both the Houses of Parliament. Consequently, enabling the scrutiny by the public representatives in order out any shortcomings or lacunae.

The Bill, therefore, seeks to amend the Academy of Scientific and Innovative Research Act, 2011 with a view to include the provisions pertaining to publishing the Statutes and Ordinances in the Gazette of India as well as laying them before both the Houses of Parliament.

Hence this Bill.

NEW DELHI;
February 8, 2016.

P. KARUNAKARAN

BILL NO. 256 OF 2016

A Bill further to amend the Andhra Pradesh Reorganisation Act, 2014.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. This Act may be called the Andhra Pradesh Reorganisation (Amendment) Act, 2016.

2. It shall come into force with immediate effect.

Insertion of new Part XA.

3. In the Andhra Pradesh Reorganisation Act, 2014, after Part X, the following new Part and sections thereunder shall be inserted, namely:— 6 of 2014.

"PART XA

SPECIAL CATEGORY STATUS TO THE SUCCESSOR STATE OF ANDHRA PRADESH

Special Category Status to the State of Andhra Pradesh.

94A. Notwithstanding anything contained in any law for the time being in force, the successor State of Andhra Pradesh shall be deemed to have been conferred the status of special category State from the date of commencement of this Act for a period of fifteen years or till it becomes a revenue-surplus state, whichever is later:

Provided that the Central Government may, if it considers necessary, by order, publish in the Official Gazette, extend the period of Special Category Status after the expiry of the said period of fifteen years.

Special Central Assistance and other concessions, grants and subsidies to the State of Andhra Pradesh.

94B. The Successor State of Andhra Pradesh shall, by virtue of being a Special Category State, be provided the normal central assistance, the additional central assistance and the special central assistance according to the Gadgil Mukherjee formula and, in particular, the following benefits as long as the State enjoys the Special Category Status with regard to distribution of tax revenues and grants—

(i) concession in excise and customs duties as prescribed by the Union Ministry of Finance to industries and units set up in the successor State of Andhra Pradesh on or after the commencement of this Act;

(ii) concessions in income tax and corporate tax rates, as determined by the Union Ministry of Finance;

(iii) forty per cent. subsidy shall be given on working capital to industries and units which are set up to expand their industries and units in the successor State of Andhra Pradesh on or after the commencement of this Act; and

(iv) forty per cent. concession to all existing industries and units set up on or after the appointed day in electricity charges for fifteen years in the successor State of Andhra Pradesh.

Fiscal Responsibility and Budget management limit to be fixed at five per cent. of State Gross Domestic Product.

94C. Notwithstanding anything contained in any other law for the time being in force, the Fiscal Responsibility and Budget management limit in respect of the successor State of Andhra Pradesh shall be fixed at five per cent. of State Gross Domestic Product.".

STATEMENT OF OBJECTS AND REASONS

While considering the Andhra Pradesh Reorganisation Act, the then honourable Prime Minister assured on the Floor of Rajya Sabha in no uncertain terms that once the State is bifurcated, State of Andhra Pradesh would be accorded the Special Category Status for five years. And, while speaking on the Bill, the present honourable Urban Development Minister had demanded for extending the period further and declared that if they came to power Special Category Status would be extended to ten years.

The Andhra Pradesh Reorganisation Act was passed in February, 2014 and on 1st March, 2014, the Union Cabinet had also approved Special Category Status for Andhra Pradesh. It is already more than two years since assurance was given. But, so far, there is not even a single move from the Union Government to confer Special Category Status on Andhra Pradesh.

The Raghuram Rajan Committee Report on 'Evolving a Composite Development Index of States' points out three sets of factors that influence State's development needs and performance—local environmental factors, institutional capacity and infrastructure. And, notably, according to the National Development Council criteria for according Special Category Status, 'economic and infrastructure backwardness and non-viable nature of finances' are the two important factors for declaring any State as Special Category. Andhra Pradesh qualifies both the criteria—it has no institutional capacity, it is backward in economic and infrastructure and has low resource base and hence not in a position to mobilize resources for its developmental needs.

Although Fourteenth Finance Commission did not make a distinction between Special Category States and General Category States while determining the norms and recommendations, it did take into account the cost disability and fiscal capacity of the States. And, the Union Government has not abolished the distinction between Special Category States and the General Category States. It is evident from the Report of the 14th Finance Commission that Andhra Pradesh would be the only State, other than Special Category States, which would be with revenue-deficit at the end of the Fourteenth Finance Commission period *i.e.,* 2019-20, and, potentially, afterward, at a time when Bihar, Odisha, Rajasthan and similar other backward States would be thriving with revenue surplus. So, Andhra Pradesh will continue to be the most fiscally disadvantaged State in the country.

In view of the above, it is all the more necessary to confer Special Category Status on Andhra Pradesh to provide a level-playing field to the State and help it in growing along with others and be a part of the growth story of the country.

Hence this Bill.

NEW DELHI;
February 10, 2016.

Y.V. SUBBA REDDY

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117(1) AND 117(3) OF THE CONSTITUTION

[Copy of letter No. 16017/02/2016-SR dated 26 April, 2016 from Shri Haribhai Parathibhai Chaudhary, Minister of State in the Ministry of Home Affairs, to Secretary General, Lok Sabha].

The President, having been informed of the subject matter of the Andhra Pradesh Reorganisation (Amendment) Bill, 2016 (Insertion of new Part XA) by Shri Y.V. Subba Reddy, M.P., has recommended under articles 117(1) and 274(1) for introduction and under article 117(3) of the Constitution for the consideration of the Bill in Lok Sabha.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to provide Special Category Status to the successor State of Andhra Pradesh by providing certain concessions, subsidies and other assistance to the successor State of Andhra Pradesh. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India for conferring special status to the successor State of Andhra Pradesh. As the sums of money which will be given to the successor State of Andhra Pradesh as concessions and subsidy by appropriation, by law, made by Parliament, cannot be stated now it is not possible to give the estimate of recurrring expenditure which would be involved out of the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved out of the Consolidated Fund of India.

BILL NO. 77 OF 2016

A Bill to provide for population control and for matters connected therewith.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called as the Population Control Act, 2016.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*b*) "Board" means District Board constituted under section 4;

(*c*) "child" includes an adopted child; and

(*d*) "prescribed" means prescribed by rules made under this Act.

No person shall procreate more than two living children.

3. No person shall procreate more than two living children after a period of one year from the commencement of this Act.

Constitution of a District Board.

4. (*1*) The appropriate Government shall constitute a Board to be known as the District Board in every district for the purpose of this Act.

(*2*) The Board shall consist of—

(*a*) Chief Medical Officer of the district;

(*b*) District Collector;

(*c*) one representative of Panchayat each at village, intermediate or district level; and

(*d*) one representative of Municipal Council or Corporation, as the case may be.

Application for permission from District Board.

5. If any person intends to procreate more than two living children for any medical reason, he shall apply to the Board for necessary permission in such form and manner as may be prescribed.

Permission for procreation of third child by Board.

6. (*1*) On receipt of an application from a person under section 5, the District Board shall examine the reasons furnished by an applicant and communicate its decision within a period of one month.

(*2*) If the District Board is satisfied that exceptional medical circumstances exist which require the applicant to opt for third child, the District Board shall grant necessary permission.

(*3*) If the District Board is not satisfied with the reasons furnished by the applicant, the District Board may, after giving an opportunity to the applicant of being heard to the applicant in the matter, reject the application.

Appropriate Government to promote small family norms.

7. The appropriate Government shall take steps to encourage, promote and motivate married couples to opt for small family norms with a view to check the rising population in the country.

Disentitlement of benefits for contravention of the Act.

8. Any person who contravenes the provisions of section 3 shall not be entitled to avail any benefit under any ongoing welfare scheme of the Government.

Act to have overriding effect.

9. The provisions of this Act shall have effect notwithstanding anything contained to the contrary in any other law for the time being in force.

Power to make rules.

10. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days

which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification of annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Rapid increase in population is creating pressure on available natural resources in the country. The resources are shrinking day by day due to consumption by increasing population.

Our welfare schemes are not giving desired results as these schemes are meant for limited population. Unless we make a definite law to check population explosion, the welfare schemes will not yield desired results.

It is very hard to replenish natural resources. Every citizen has a responsibility to use our natural resources in a sustainable manner and the increasing population is creating an extra burden on existing resources. Therefore, it is necessary to enact a law to put a check on increasing population at the earliest. In view of consistent threat to natural resources it is necessary to take immediate steps to check growing population in the country in order to achieve sustainable development.

The Bill seeks to provide for making it compulsory for every citizen not to procreate more than two living children after one year from coming into force of this Act. It also provides that if any person contravenes the provisions of this Act, he shall not be entitled to avail any benefit under any ongoing welfare scheme of the Government.

Hence this Bill.

NEW DELHI;
February 10, 2016.

PRAHLAD SINGH PATEL

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for taking steps to encourage, promote and motivate married couples to opt for small family norms. The Central Government shall have to incur some expenditure for implementing the provisions of this Bill in respect of Union Territories. The State Government will incur expenditure in respect of their States out of their respective consolidated funds. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees twelve crores per annum will be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

———

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 317 OF 2016

A Bill to provide for institutional mechanism to regulate import of consumer goods having potential to cause harm to the well being of citizens.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Import of Consumer Goods (Regulation) Act, 2016.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) 'Committee' means the Committee for Regulation of Import of Consumer Goods constituted under section 4; and

(*b*) 'prescribed' means prescribed by rules made under this Act.

Clearance certificate for importing consumer goods.

3. No importer, whether in individual capacity or as a body corporate, shall import any product or consumer goods for use or consumption by human or animals into India without obtaining the clearance certificate from the Committee.

Constitution of the Committee for Regulation of Import of Consumer Goods.

4. *(1)* The Central Government shall constitute a Committee to be known as the Committee for Regulation of Import of Consumer Goods to regulate the import of products or consumer goods into India.

(2) The Committee shall consist of a Chairperson and such number of other members as may be prescribed.

(3) The Central Government shall provide such number of officers and staff to the Committee as may be necessary to discharge its functions efficiently.

Application for clearance certificate for importing of consumer goods.

5. Every importer shall apply to the Committee for clearance certificate for importing any product or consumer goods into India in such form and manner as may be prescribed.

Functions of the Committee.

6. The Committee shall—

(*i*) entertain application from importers for clearance certificate to import any product or consumer goods for use or consumption by human or animals into India;

(*ii*) examine the applications received under clause (*i*);

(*iii*) issue clearance certificate, if satisfied with quality and purpose of importing a product or consumer goods into India, within a period of one month from the date of receipt of application under section 5;

(*iv*) reject application, if not satisfied with quality and purpose of importing product or consumer goods, within a period of one month from the date of receipt of application under section 5, after giving an opportunity of being heard to the applicant;

(*v*) take help of experts to assess the qualities or harmful effects of use or consumption of any product or consumer goods by human or animals; and

(*vi*) specify products and consumer goods which are not to be imported into India.

Appeal.

7. (*1*) Any importer who is aggrieved by the decision of the Committee may prefer an appeal to such Authority as may be so designated by the Central Government and the Authority shall dispose of the appeal within a period of one month from the date of its filing.

(*2*) The Appellate Authority shall give an opportunity of being heard to every importer while deciding the appeal under sub-section (*1*).

Penalty.

8. Any person who indulges in any activity of importing consumer goods into India without obtaining clearance certificate from the Committee shall be punished with imprisonment for a term which may extend upto one year and with fine which may extend upto rupees fifty thousand.

Act not to be in derogation of other Laws.

9. The provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force, regulating any of the matters dealt with in this Act.

Power to make rules.

10. (*1*) The Central Government may by notification in the Official Gazette make rules for carrying out the provisions of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

After the liberalization of economic policies including import and export of products or consumer goods, it has been witnessed that quality and standards of such products or consumer goods are not fit for human consumption or consumption by animals and also hazardous to environment. Therefore, there is an urgent need for evolving some mechanism to regulate import of consumer goods into India and prevent the country from becoming a dumping ground of foreign goods. The Bill seeks to regulate import of consumer goods into India by constituting a Committee for the purpose and to check the uninterrupted importing of consumer goods affecting not only well being of citizens but also causing harm to our environment.

The Bill seeks to achieve the above objectives.

NEW DELHI;
November 15, 2016.

PRAHLAD SINGH PATEL

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for constitution of the Committee for Regulation of Import of Consumer Goods by the Central Government. It further provides that the Central Government shall provide necessary officers and staff to the Committee.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five crore may be involved as recurring expenditure per annum.

A non-recurring expenditure of about rupees three crore is likely to be involved.

MEMORANDUM REGARDING DELEGATGED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 116 OF 2016

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Penal Code (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of New Section 376F.

2. After section 376E of the Indian Penal Code, 1860, the following section shall be inserted, namely:—

Confiscation of movable and immovable properties of the convicted person.

"376F. Notwithstanding anything contained in any other law for the time being in force, whoever commits rape, his movable and immovable property shall be confiscated and delivered to the victim of rape:

Provided that if the person convicted of committing the offence of rape is married and has children, his movable and immovable property shall be distributed equally between the victim of rape and the wife and children of the convicted.

STATEMENT OF OBJECTS AND REASONS

Incidents of rape have increased in the recent days. There has been considerable delay in filing the cases and the final verdict. In the meanwhile, the victim is harassed not only by the defense lawyers but also by the society. In case, she holds any job especially in private sector, she is removed from the job and her situation becomes worse when there is no one to take care of her and she is left to fend for herself. All these conditions force her to lead a miserable life.

Therefore, it is proposed that apart from punishment provided under the Indian Penal Code, the movable and immovable property of a person who commits rape shall be confiscated and delivered to the victim. This will not only act as a deterrent but also, to some extent, help the victim to come back from her agony and lead a dignified life. As the family of the convicted person should also be taken care of, it is also proposed that where the person convicted of an offence of rape is married and has children, his property shall be divided equally between his family and victim of rape.

Hence this Bill.

NEW DELHI;
April 13, 2016.

PRAVESH VERMA

BILL NO. 117 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 243D.

2. In article 243D of the Constitution,—

(*i*) in clause (*3*), for the words "Not less than one-third", the words "Not less than one-half" shall be substituted; and

(*ii*) in clause (*4*), in the second proviso, for the words "not less than one-third", the words "not less than one-half" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

At present one third of the total number of seats are reserved for women in every Panchayat, which is not adequate. The Bill, therefore, seeks to amend the Constitution with a view to increase the number of seats reserved for women from existing 'one-third' to 'one-half' to ensure increased participation of women in Panchayats.

It has been observed that wherever a woman is the Chairperson of a Panchayat, development works are taking place at a good pace. But this provision is also inadequate to empower women. The Bill, therefore, also proposes that not less than one-half of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women.

Hence this Bill.

NEW DELHI;
April 13, 2016.

PRAVESH VERMA

BILL NO. 235 OF 2016

A Bill to provide for a comprehensive policy for the overall development of youth in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Youth (Development and Welfare) Act, 2016.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(*b*) "youth" means all persons aged between eighteen to thirty-five years; and

(*c*) "youth organisation" means an organisation of youth that provides for universal membership to youths without any discrimination on the basis of race, caste, religion, language, creed or sex and its constitution provides for a democratic functioning in the concerned States or Union territories, as the case may be; and

(*d*) "prescribed" means prescribed by rules made under this Act.

Formulation of comprehensive policies for youths.

3. *(1)* The appropriate Government shall formulate comprehensive policy for the development and welfare of youths, which shall *inter-alia* provide for:—

(a) compulsory and free education including technical education;

(b) books, stationery and uniform, free of cost;

(c) free hostel facilities;

(d) scholarship to meritorious students;

(e) free transport facilities;

(f) such pocket allowance, as may be prescribed;

(g) recreation facilities free of cost;

(h) free access to all libraries;

(i) training in sports to every eligible youth and facilities to participate in sports activities;

(j) representation of youth organisations in sports associations; and

*(k) s*uch other facilities, as may be prescribed, for overall welfare of youth, who have represented the country in sports.

Free nutritious meals, medical and health care facilities.

4. The appropriate Government shall provide to all youth,—

(i) free nutritious meals in schools, colleges, universities, hostels and technical institutions; and

(ii) free medical and health care facilities.

Appointment of Expert Committee.

5. *(1)* The appropriate Government shall appoint in every district an Expert committee consisting of eminent educationists, psychologists and such other members as may be prescribed.

(2) The Expert committee shall recommend to the appropriate Government the measures required to be taken to ensure imparting of higher education or vocational training to all youth in the district after class tenth, who desire to pursue higher education or undertake such training.

Appropriate Government to provide employment or unemployment allowance to youths.

6. The appropriate Government shall provide,—

(a) employment to the youth after completion of their education or vocational training; or

(b) unemployment allowance at such rate, as may be prescribed, till they are provided with gainful employment.

Power to make rules.

7. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Even after more than six decades of Independence, the country has yet to evolve a clear-cut policy for the overall welfare of youths of the country. The education should be the right of every youth and not a privilege of a few and employment should be guaranteed to them. The youth should be directly linked to production process. The disparities between the rural and urban youths should be eliminated gradually. The youth today is facing serious health problems, absolute inadequacy of sports and cultural facilities, etc. A considerable chunk of youth population is still reeling under poverty. A proper policy is required to be put in place for comprehensive and overall development of the youths and proper utilization of their energies. A comprehensive youth policy for all-round development is, therefore, absolutely necessary.

Hence, this Bill.

NEW DELHI;
July 4, 2016.

NISHIKANT DUBEY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that appropriate Government shall provide compulsory and free education and supply materials like books, stationery and uniform free of cost and pocket allowance to all the youths. It also provides for free hostel and transport facilities and scholarships to youths. Clause 4 provides for nutritious diet free of cost to all the students in schools, colleges, universities and hostels and medical and healthcare facilities to all the youths. Clause 5 provides for appointment of an expert committee to recommend the type of education and vocational training that is to be imparted to the youth. Clause 6 provides for employment or unemployment allowance to the youths. The expenditure relating to State shall be borne out of the Consolidated Fund of the respective State. However, the expenditure relating to Union territories shall be borne out of the Consolidated Fund of India from their respective consolidated fund. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees five hundred crore is likely to be incurred from the Consolidated Fund of India. A non-recurring expenditure of about rupees seven hundred crore is also likely to be incurred.

———

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 229 OF 2016

A Bill further to amend the Indian Penal Code, 1860 *and the Code of Criminal Procedure,* 1973.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Criminal Law (Amendment) Act, 2016.

(*2*) It shall come into force on such date as Central Government may, by notification in the Official Gazette, appoint.

45 of 1860.

Amendment of section 304A.

2. In section 304A of the Indian Penal Code, 1860, for the words "two years", the words "five years" shall be substituted.

2 of 1974.

In the First Schedule to the Code of Criminal Procedure,1973, under the heading "I.—OFFENCES UNDER THE INDIAN PENAL CODE", for the entries relating to section 304A, the following entries shall be substituted, namely:—

1	2	3	4	5	6
" 304A	Causing death by rash or negligent act.	Imprisonment for 5 years, or fine, or both.	Cognizable	Non-bailable	Magistrate of the first class.".

STATEMENT OF OBJECTS AND REASONS

Negligence in criminal terms refers to such a degree which is so extreme in nature that it constitutes an offence. Similarly death caused by an act without an intention of causing death is said to be a negligent act or death caused by negligence. But whenever there is negligence in one's commission or omission, there is a lack of caution. When this lack of caution on one's part is so grave that it causes the death of another, the caution free mind is not free from the realm of *mens rea.*

An act lacking caution in itself is done with the knowledge that there is a lack of caution. The doer may not be well aware of the consequences of his act but is very much aware of the amount of caution he is lacking while doing an act. A person being aware of the amount of caution lacking on his part automatically makes him aware of the dangerous consequences that may result in due to such lack. The act of negligence becomes so grave when it causes death of a person. Therefore, it is perhaps not wrong to say that the doer was aware of the lack of caution in his act and hence aware of the dangerous consequences of such lacking. Thus even without having any intention to cause homicide, the doer opts for a game of probability where there is a chance of death being caused. This small probability is all that requires to cause death in certain cases. This lack of caution cannot be held as a minor mistake on the part of the doer since he himself creates the opportunity for death to cause.

Section 304A of the Indian Penal Code provides for punishment for causing death by rash or negligent act, which is two years and is bailable in nature. Taking account of the recent cases wherein innocent lives were lost due to rash and negligent attitude of drivers, it is imperative that a deterrent by way of law should be created. Hence in no case this offence should be non-compoundable in nature and no bail should be granted to the accused.

Moreover, the two years imprisonment may be taken undue advantage of by professional criminals who kill intentionally and try to fit their case within the realm of section 304A. If the punishment is increased from two to five years, there shall be a deterrent effect on those who seem to take lives of others in a casual manner.

The Bill, therefore, accordingly seeks to amend section 304A of the Indian Penal Code, 1860 and the First Schedule to the Code of Criminal Procedure, 1973.

Hence this Bill.

NEW DELHI;
July 6, 2016.

DUSHYANT CHAUTALA

BILL NO. 223 OF 2016

A Bill further to amend the Railways Act, 1989.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Railways (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 126.

24 of 1989.

2. In section 126 of the Railways Act, 1989, in sub-section (*2*), the following provisos shall be added at the end, namely:—

"Provided that the sum paid under this sub-section to any person who has sustained the injury or suffered any loss shall not be less than rupees one lakh and, where death has resulted from the accident, such sum paid to any dependant of the deceased shall not be less than rupees ten lakh:

Provided further that an inquiry under this sub-section shall be completed by the railway administration within two weeks from the date of receipt of the application.".

STATEMENT OF OBJECTS AND REASONS

Indian Railways is the largest Public Sector Undertaking serving more than 23 million passengers across the country every day. Even though various safety measures have been taken by Indian Railways, the probability of Rail accidents has not been eliminated. In such a situation, it is highly desirable that a sound compensation system be put in place.

In the year 2014, a total number of 190 passengers died in train accidents, out of which 99 deaths occurred due to train collisions, 59 owing to derailment and 32 on account of fire. Besides, thousands of passengers were also injured. Similarly, in the year 2015, besides injuries to hundreds of people, 84 deaths occurred due to train collision and derailment, etc. The loss of life in accidents brings not only pain and agony to the victim's family but many a times it results in losing the breadwinner placing the family in severe financial crisis.

Section 126 of the Railways Act, 1989 provides for the procedure for seeking interim relief from the railway administration. However, it is observed that the Railway administration takes a considerable time in disposing off the application for interim relief, which causes considerable distress to the lives of affected people. Therefore, there is a need for fixing a time limit on authorities for disposing off such applications.

It is also of utmost importance that an interim relief of minimum of rupees one lakh in case of injury or loss and rupees ten lakh in case of death be paid to the affected person or to the dependants of the deceased, as the case may be.

Hence this Bill.

NEW DELHI;
July 6, 2016.

DUSHYANT CHAUTALA

BILL NO. 225 OF 2016

A Bill further to amend the Narcotic Drugs and Psychotropic Substances Act, 1985.

BE it enacted by Parliament in the Sixty-seventh year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

61 of 1985.

Amendment of section 42.

2. In section 42 of the Narcotic Drugs and Psychotropic Substances Act, 1985, after sub-section (*2*), the following sub-sections shall be added, namely:—

"(*3*) The officer empowered to enter, search, seize and arrest under sub-section (*1*) shall—

(a) record the post-entry search, seizure and arrest by audio-video electronic means:

Provided that the recording device shall not be switched off till the completion of search, seizure and arrest; and

(*b*) inform the accused or the person being arrested or the person present in any such building or place about audio-video recording of such search, seizure and arrest.

(*4*) The officer empowered to enter, search, seize and arrest under sub-section (*1*) shall handover the audio-video recording under sub-section (*3*) to his superior officer who shall keep such recording in his custody for evidentiary purpose."

STATEMENT OF OBJECTS AND REASONS

The issue of illegal use of drugs is soaring in India. With passage of time, the problem has been a major setback in evolution of India as a developed economy. Use of illicit drugs in India has increased with more than three million drug addicts across the country. Cannabis, Heroin, Opium, Methamphetamine and *Hashish* are the most commonly used drugs in the country. Drug addiction not only causes a major discomfiture, both physically and mentally, upon the persons consuming but also creates great inconvenience to the family members of such persons.

The Narcotic Drugs and Psychotropic Substances Act, 1985. commonly referred to as NDPS Act., 1985 came into force on 14 November, 1985 and since then is being used by the law keeping agencies to keep a close surveillance on production, manufacture. cultivation, sale, purchase, transportation, storage, possession and consumption of narcotic drugs and psychotropic substances.

Section 42 of the Act empowers certain officers to enter in any building or place and search and seize or arrest the offender even without warrant or authorization, if he has reasons to believe that an offence in respect of any narcotic drug or psychotropic substance has been committed.

The process of searching is the most pivotal step in the procedure as it provides the base for setting the case. The task needs to be done in the most patient way and by the most trusted officials as in many cases innocent people are penalized without any reasonable cause.

According to the latest reports, in many cases of search and seizure, the police officers mostly pick up the innocent people who do not have the capacity to pay bribes so as to complete their monthly targets. In order to enhance the transparency in the procedure, the officers should be provided with a camera and a voice recorder. This will not only help in better administration and investigation but will also help the law to identify the accused and punish them accordingly. As per the statistics, around 64,737 drug trafficking cases have been reported in the past four years, out of which many are false and frivolous. The investigation procedure taken up by the officers is not appropriate and needs to be more resolute. The suggested amendment will augment the investigation and also aggrandize faith of people in law and justice.

Hence this Bill.

NEW DELHI;
July 6, 2016.

DUSHYANT CHAUTALA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the officer empowered shall make audio-video recording of the post-entry search, seizure and arrest procedure. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees five crore per annum will be involved.

A non-recurring expenditure of about rupees fifty crore will also be involved.

BILL NO. 226 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2016.

Amendment of article 15.

2. In article 15 of the Constitution, clause (*5*) shall be omitted.

Amendment of article 26.

3. The existing article 26 of the Constitution shall be renumbered as clause (*1*) thereof and after clause (*1*) as so renumbered, the following clauses shall be inserted, namely:—

"(*2*) Notwithstanding anything contained in article 25, the State shall not control, administer or manage, whatsoever, any institution, including its properties, established

or maintained for religious or charitable purposes by a religious denomination or any section thereof.

(*3*) All laws in force in the territory of India in so far as they are inconsistent with the provisions of this article shall, to the extent of such inconsistency, be void.

(*4*) The State shall not make any law which enables it to control, administer or manage, whatsoever, any institution, including its properties, established or maintained for religious or charitable purposes by a religious denomination or any section thereof, and, any law made in contravention of this clause shall, to the extent of such contravention, be void.

(*5*) In this article the expressions "law" and "laws in force" have same meaning as respectively assigned to them in clause (*3*) of article 13.".

Amendment of article 27.

4. The existing article 27 of the Constitution shall be renumbered as clause (*1*) thereof and after clause (*1*) as so renumbered, the following clause shall be inserted, namely:—

"(*2*) No moneys out of the Consolidated Fund of India, the Consolidated Fund of a State, the Contingency Fund of India or the Contingency Fund of a State or out of the fund of any public body shall be appropriated for advancement or promotion of a section of citizens solely or primarily on the basis of their religious affiliation or belonging to one or more religious or linguistic denomination.".

Amendment of article 28.

5. In article 28 of the Constitution, after clause (*3*), the following clause shall be inserted, namely:—

"(*4*) Nothing in this Constitution shall be deemed to forbid the teaching of traditional Indian knowledge or ancient texts of India in any educational institution, wholly or partly maintained out of State Funds.".

Amendment of article 29.

6. In article 29 of the Constitution, in the marginal heading, for the words "interests of minorities", the words "cultural and educational rights" shall be substituted.

Amendment of article 30.

7. In article 30 of the Constitution—

(*a*) in the marginal heading for the word "minorities", the words "all sections of citizens, whether based on religion or language", shall be substituted;

(*b*) in clause (*1*), for the word "minorities", the words " sections of citizens" shall be substituted;

(*c*) in clause (*1A*) for the words "a minority", the words "a section of citizens" shall be substituted; and

(*d*) in clause (*2*), for the words "a minority", the words "a section of citizens" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

As per our Constitution, the State has no religion. The State has to treat all religions and religious people equally and with equal respect without, in any manner, interfering with their right to freedom of religion, faith and worship. As evident from the sub-text of the debates of the Constituent Assembly, the rights assumed for the majority were only made explicit to the minorities as an assurance to the latter in the backdrop of the peculiar circumstances then prevailing in the aftermath of partition. In any case, it was never the intention of the makers of our Constitution to deny to the majority the rights expressly provided to the minority. Yet, it gradually led to interpretations that only the minorities were given rights withheld from the majority generating an unhealthy feeling of discrimination among the majority community. It goes without saying that nursing any real or perceived grievance against the State by any section of citizens, majority or minority, is detrimental to the unity and integrity of the country.

Article 26 bestows rights on all religious denominations, irrespective of majority or minority, to establish and maintain institutions for religious and charitable purposes, to manage their own affairs, and to own, acquire and administer property thereof. In a catena of judgements, the Supreme Court iterated the same. In *Ratilal Panachand Gandhi v. State of Bombay,* it was held "in regard to affairs in matters of religion, the right of management given to a religious body is a guaranteed fundamental right which no legislation can take away. On the other hand, as regards administration of property which a religious denomination is entitled to own and acquire, it has undoubtedly the right to administer such property but only in accordance with law. This means that the State can regulate the administration of trust properties by means of laws validly enacted; but here again it should be remembered that under article 26(d), it is the religious denomination itself which has been given the right to administer its property in accordance with any law which the, State may validly impose. A law, which takes away the right of administration altogether from the religious denomination and vests it in any other or secular authority, would amount to violation of the right which is guaranteed by article 26(d) of the Constitution". The apex Court in *Pannalal Bansilal Pitti v. State of Andhra Pradesh* opined "While articles 25 and 26 granted religious freedom to minority religions like Islam, Christianity and Judaism, they do not intend to deny the same guarantee to Hindus. Therefore, protection under articles 25 and 26 is available to the people professing Hindu religion, subject to the law therein. The right to establish a religious and charitable institution is a part of religious belief or faith and, though law made under clause (*2*) of article 25 may impose restrictions on the exercise of that right, the right to administer and maintain such institution cannot altogether be taken away and vested in other party; more particularly, in the officers of a secular Government".

There has been widespread legitimate grievance and feeling of discrimination among Hindus that despite the Constitutional provisions and judicial decisions, Hindu temples and religious and charitable institutions are routinely taken over by the secular State on the pretext of maladministration, mismangement, etc., whereas mosques and churches of the minorities are allowed to be exclusively managed by the respective communities even though article 26 confers right equally upon all sections of citizens. Hindus also genuinely feel that such State control results in despoiling the Hindu religious centres, large scale misappropriation of the temples' income and properties and its redirection to secular purposes by the State, which is a major factor in the grinding poverty afflicting most Hindu temples, priests and their families. In order to maintain the secular character of the State and prevent it from usurping the religious and charitable institutions of any religious denomination or a section thereof, it is felt necessary to amend article 26 of the Constitution.

Article 27 provides that no person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination. Hon'ble Prime Minister Shri Narendra Modi as the then Chief Minister of Gujarat had in his speech to the National Developmental Council on 19th December 2007 took the stand that discrimination amongst the eligible beneficiaries based on religion will not help the cause of taking the people of India together on the path of development, and the correct criteria for flow of funds for various schemes and programmes should be based on principles of equity by taking only socio-economic criteria alone. In the interest of maintaining true secular character of the State, there is imperative need for amendment of article 27 forbidding expenditure from the Consolidated or Contingency Fund of Union or any State or from the funds of any public body for any purpose premised solely or primarily on the religious affiliation or language. Language as a primary or sole consideration should also be excluded as certain languages have exclusive association with certain religions which may be used as subterfuge to circumvent the proposed embargo.

Article 28 rightly keeps religious instructions out of public educational system in the country. However, it was never the intention of the framers of the Constitution to keep the study and learning of traditional knowledge systems and civilizational heritage including study of such great texts like the Vedas, the Upanishads, the Mahabharata, the Ramayana, etc. from out of public education system, yet, these have been completely kept out of education system leading to deracination of Indians from their cultural and civilizational moorings which does not augur well for the future of the country. There is thus a case for amendment of article 28 to provide for teaching of our traditional knowledge and ancient texts.

Article 29 confers cultural and educational rights to all sections of citizens, majority or minority, having distinct language, script or culture of their own. However, the word 'minorities' in the marginal heading of article 29 is incongruent with the body of its contents as also with the group heading 'cultural and educational rights'. Such incongruence has the potential for misunderstanding as if these rights are conferred only on minorities. It is, therefore, felt necessary to amend article 29 to remove any doubts.

Our Constitution mandates that the State shall not discriminate on grounds only of religion, race, caste, language or any of them. Article 30, as it stands, confers educational rights on religious and linguistic minorities without saying anything about the majority. If it had not assumed the same rights for the majority, it would not had been passed by the Constituent Assembly. An eleven-Judge Bench of the Supreme Court in *T.M.A. Pai Foundation v. State of Karnataka* expressed an expansive opinion when it said, "The right to establish and maintain educational institutions may also be sourced to article 26(a), which grants, in positive terms, the right to every religious denomination or any section thereof to establish and maintain institutions for religious and charitable purposes, subject to public order, morality and health". Further, the aspirations for conserving and communicating religious and cultural traditions and language to succeeding generations is legitimate and applies to all groups, big or small. It is, therefore, felt that the scope of article 30 of the Constitution should be widened to include all communities and sections of citizens who form a distinct religious or linguistic group. Consequent to such proposed amendment, clause (*5*) of article 15, inserted by the Constitution (Ninety-third) Amendment Act, 2005, loses its relevance and accordingly it is proposed to omit clause (*5*) of article 15 of the Constitution.

Hence this Bill.

NEW DELHI; SATYA PAL SINGH

July 6, 2016.

BILL NO. 224 OF 2016

A Bill further to amend the Mahatma Gandhi National Rural Employment Guarantee Act, 2005.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Mahatma Gandhi National Rural Employment Guarantee (Amendment) Act, 2016.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of Schedule I.

2. In the Mahatma Gandhi National Rural Employment Guarantee Act, 2005, in Schedule 1, in para 20, for the words "forty per cent.", occurring at both the places, the words "sixty per cent." shall be substituted. 42 of 2005.

STATEMENT OF OBJECTS AND REASONS

Para 20 of Schedule I of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 provides that for all works taken up by the Gram Panchayats and other implementing agencies, the cost of the material component including the wages of the skilled and semi-skilled workers shall not exceed forty per cent at the Gram Panchayat or the district level, as the case may be. Since the scheme has come into force, it is observed that there is a great difficulty in maintaining the expenditure ratio in terms of material in the given prescribed limits and in some cases it exceeded to more than fifty per cent. The social audit of the scheme implementation has also indicated that the work is not being undertaken within prescribed ceiling in the Act. So, under the existing limit of forty per cent. good quality work cannot be undertaken by the Gram Panchayat or the district authorities for creating better social infrastructure in the rural areas. Hence, the Bill seeks to increase the material component limit upto sixty per cent. so as to enable creation of better infrastructure in rural areas.

Hence this Bill.

NEW DELHI;
July, 8, 2016.

UDIT RAJ

BILL NO. 231 OF 2016

A Bill to provide for regularisation and universalisation of Integrated Child Development Services in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. *(1)* This Act may be called the Integrated Child Development Services (Regularisation) Act, 2016.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "anganwadi centre" means a centre which shall be used for providing integrated child development services by the appropriate Government and includes all the existing centres being used for providing integrated child development services in the country;

(b) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government; and

(c) "prescribed" means prescribed by rules made under this Act.

Regularisation and institutionalisation of Integrated Child Development Services.

3. On and from such date as the Central Government may, by notification in the Official Gazette appoint, the existing Integrated Child Development Services for overall development of children shall be deemed to be regularised and institutionalized under this Act in such manner as may be prescribed.

Establishment of adequate number of anganwadi centres.

4. *(1)* The appropriate Government shall establish adequate number of anganwadi centres in every settlement or village throughout the country.

(2) The appropriate Government shall make available land, building infrastructure and all basic facilities including nutritious meal, educational games, toys, stationery items, learning and writing material, television sets, computers and such material as required for the overall development of children and facility of pre-natal and post-natal care to infants and mothers at every anganwadi centre.

(*3*) The appropriate Government shall regulate the functioning of anganwadi centres, in such manner and through such bodies of local self government, as may be prescribed.

Redesignation of anganwadi workers and helpers.

5. The 'anganwadi workers' and 'helpers' working in the existing anganwadi centres shall hereinafter be known as 'anganwadi teachers' and 'anganwadi assistants', respectively.

Setting up of National Committee.

6. *(1)* The Central Government shall constitute a Committee to be known as the National Committee for the welfare of persons working in anganwadi centres in such manner as may be prescribed.

(*2*) The National Committee shall perform the following functions, namely:—

(*i*) suggest measures to streamline the functioning of existing anganwadi centres;

(*ii*) identify areas where cases of malnutrition of children are reported and recommend opening up of anganwadi centres in such areas;

(*iii*) monitor the functioning of anganwadi centres;

(*iv*) conduct foundation training course for anganwadi teachers and assistants;

(*v*) fix working hours for anganwadi teachers and assistants;

(*vi*) prescribe the educational qualification and other criteria for recruiting the persons as anganwadi teachers and assistants;

(vii) recommend salary, allowances, over-time, honorarium, leave, provident fund and other benefits, including maternity benefits, for employees of anganwadi centres from time to time;

(viii) provide free health care to anganwadi teachers and assistants and their minor children;

(ix) provide insurance cover to anganwadi teachers and assistants; and

(x) suggest other measures for overall development of children and efficient functioning of anganwadi centres.

Release of funds.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, release the necessary funds to the National Committee for effective implementation of the Act.

Power to remove difficulties.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order publish in the Official Gazette, make such provision, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing such difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

Power to make rules.

9. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The rights of women and children and their aspirations are of paramount importance in our march towards an inclusive and equitable society. Keeping in view the constitutional provisions and in order to give greater focus to issues relating to women and children, it is necessary to invest more in the programmes meant for eradication of malnutrition and expansion of anganwadis. It is a fact that the Integrated Child Development Services (ICDS) has grown by leaps and bounds with a wide range of activities being brought within its ambit and consequent expansion of the area of work of anganwadi workers and helpers and increase in their working hours. There is no justification for their being treated as social and honorary workers with the paltry amount doled out to them as honorarium, especially when they have put in long years of service and the success of the scheme, which has been lauded by various agencies, is due to the hard work of the anganwadi workers and helpers. These anganwadi workers are working in close relationship with the people and their services are being utilized by the respective State Governments for a whole range of activities—be it survey, promotion of small saving schemes, group insurance or non-formal education. Despite this, their demand for seeking regularisation and institutionalisation of services is being brushed aside. Therefore, in recognition of their services, they need a better lot and improvement in their service conditions and remunerations. There is also need of an effective system of supervision of anganwadi centres.

In view of the above, the Bill seeks to provide for universalisation, regularisation and institutionalisation of Integrated Child Development Services for all-round development of children and expansion of anganwadi centres for effective implementation of the scheme.

Hence this Bill.

NEW DELHI;
July 8, 2016.

UDIT RAJ

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117(3) OF THE CONSTITUTION

[Copy of letter No. 20011/13/2016-CD.I dated 19 September, 2016 from Shrimati Maneka Sanjay Gandhi, Minister of Women and Child Development to the Secretary General, Lok Sabha]

The President, having been informed of the subject matter of the Integrated Child Development Services (Regularization) Bill, 2016 by Dr. Udit Raj, M.P., has recommended the consideration of the Bill under article 117(3) of the Constitution in Lok Sabha.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for regularisation and institutionalisation of the Integrated Child Development Services by the Central Government. Clause 4 provides for setting up of adequate number of anganwadi centres with basic facilities in every settlement. Clause 6 provides for setting up of a National Committee for the welfare of persons working in anganwadi centres. Clause 7 provides that the Central Government shall release necessary funds to the National Committee for effective implementation of this Bill. The State Governments will incur expenditure in respect of their States out of their respective Consolidated Funds for implementing the provisions of this Bill. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten thousand crore per annum.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 222 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2016.

Amendment of article 338.

2. In article 338 of the Constitution, after clause (*5*), the following clause shall be inserted, namely:—

"(*5A*) The recommendations made by the National Commission in its reports under clause (*5*), shall be binding upon, and implemented by, the Central Government and the State Governments within a period of one year from the date of making of such recommendations.".

STATEMENT OF OBJECTS AND REASONS

Article 338 of the Constitution provides for the National Commission for the Scheduled Castes to monitor all matters relating to the safeguards provided for the Scheduled Castes under the Constitution and other laws for the time being in force.

The National Commission for the Scheduled Castes is working for the last so many years but the desired result has not been achieved, so far. The major reason for this handicap is that the recommendations made by the National Commission for the Scheduled Castes in its reports are treated as recommendatory in nature by the Government. These recommendations are not considered seriously by the Government when it comes to implement the same. Therefore, it is necessary to amend the Constitution with a view to provide that the recommendations made by the National Commission in its reports shall be binding upon, and implemented by, the Central Government and the State Governments within a period of one year from the date of making of such recommendations.

Hence this Bill.

NEW DELHI;
July 8, 2016.

UDIT RAJ

BILL NO. 221 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2016.

Amendment of article 312.

2. In article 312 of the Constitution,—

(*i*) in clause (*1*), the words "including an all-India judicial service" shall be omitted; and

(*ii*) after clause (*1*), the following clause shall be inserted, namely:—

"(*1A*) Notwithstanding anything in Chapter VI of Part VI or Part XI, the Parliament shall, within one year of the coming into force of this Act, by law, provide for the creation of an all-India judicial service common to the Union and the States, and, subject to the other provisions of this Chapter, which shall also apply *mutatis mutandis* to all-India judicial service, regulate the recruitment, and the conditions of service of persons appointed to all-India judicial service.".

STATEMENT OF OBJECTS AND REASONS

There is a provision in the Constitution under article 312 for creation of All-India Services. Under this article, the Indian Administrative Service, the Indian Police Service, the Indian Foreign Service and the Indian Forest Service have been created by law, from time to time, but the creation of all-India judicial service is still awaited. In 1976, necessary amendments in the Constitution were made to create all-India judicial service but still the same has not been created.

Now, it is felt by the civil society and citizens that proper representation of all sections of the society be made in the judicial service. Therefore, the Bill seeks to amend the Constitution with a view to provide that the Parliament shall, within one year of the coming into force of this Act, by law, provide for creation of an all-India judicial service common to the Union and the States.

Hence this Bill.

NEW DELHI;
July 8, 2016

DR. UDIT RAJ

BILL NO. 255 OF 2016

A Bill further to amend the Homoeopathy Central Council Act, 1973.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Homoeopathy Central Council (Amendment) Act, 2016.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 12A.

2. In section 12A of the Homoeopathy Central Council Act, 1973 (hereinafter referred to as the principal Act), 59 of 1973

(*i*) in sub-section (*1*),— (*a*) in clause (*b*), after sub-clause (*ii*), the following sub-clause shall be inserted, namely:—

"(*iii*) admit a new batch of students in any course of study or training (including post-graduate course of study or training),";

(*b*) after the long line and before *Explanation.*— I, the following proviso shall be inserted, namely:—

"Provided that the previous permission to admit a new batch of students under sub-clause (*iii*) may be obtained for a period of five years, subject to the provisions of this Act."; and

(*ii*) in sub-section (*7*), for clauses (*a*) to (*c*), the following clauses shall be substituted, namely:—

"(*a*) whether the proposed medical institution or the existing medical institution seeking to open a new or higher course of study or training (including post-graduate course of study or training), or to increase its admission capacity or to admit a new batch of students in any course of study or training (including post-graduate course of study or training), is in a position to offer the minimum standards of medical education as prescribed by the Central Council under section 20;

(*b*) whether the person seeking to establish a medical institution or the existing medical institution seeking to open a new or higher course of study or training (including post-graduate course of study or training), or to increase its admission capacity or to admit a new batch of students in any course of study or training (including post-graduate course of study or training) has adequate financial resources under this Act;

(*c*) whether necessary facilities in respect of staff, equipment, accommodation, training, hospital and other facilities to ensure proper functioning of the medical institution or conducting the new or higher course of study or training (including post-graduate course of study or training), or increasing the admission capacity or in admitting a new batch of students in any course of study or training (including post-graduate course of study or training) have been provided or would be provided within the time limit specified in the scheme;".

Amendment of section 12B.

3. In section 12B of the principal Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Where any medical institution admits a new batch of students in any course of study or training (including post-graduate course of study or training) without the previous permission of the Central Government in accordance with the provisions of section 12A, the medical qualification granted to any student of such new batch shall not be deemed to be a recognized medical qualification for the purposes of this Act.".

STATEMENT OF OBJECTS AND REASONS

The Homoeopathy Central Council Act, 1973 provides for constitution of the Central Council of Homoeopathy for regulation of the educational standards of Homoeopathic Medical Colleges, maintenance of the Central Register of practitioners of Homoeopathy and for matters connected therewith.

The Homoeopathy Central Council Act, 1973 was amended in the year 2002 to check growth of sub-standard colleges, increase in admission capacity and starting of new courses in such colleges. The permission of the Central Government is mandatory for establishing new colleges or starting new courses of study. The existing provision in the Homoeopathy Central Council Act is, however, not enabling the Central Government to stop admissions in colleges, which are not conforming to standards specified in the regulations made under the said Act. Due to this, quality of Homoeopathy education is being compromised.

The Bill, therefore, seeks to amend the Homoeopathy Central Council Act, 1973 with a view to—

(*a*) make provision for obtaining prior permission of the Central Government by all Homoeopathy Medical Colleges for admission of new batches of students in any course of study or training (including post-graduate course of study or training); and

(*b*) provide that the aforesaid permission by the Central Government may be obtained for a period of five years in one go;

The proposed amendment will ensure quality of Homoeopathy education leading to better healthcare through Homoeopathy system of medicine.

The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;
July 8, 2016.

KIRIT PREMJIBHAI SOLANKI

BILL NO. 281 OF 2016

A Bill further to amend the Prevention of Cruelty to Animals Act, 1960.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Prevention of Cruelty to Animals (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 11.

2. In section 11 of the Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as the principal Act), in sub-section (*1*), for the words "he shall be punishable, in the case

59 of 1960.

of a first offence, with fine which shall not be less than ten rupees but which may extend to fifty rupees, and in the case of a second or subsequent offence committed within three years of the previous offence, with fine which shall not be less than twenty-five rupees but which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both.", the words "he shall be punishable, in the case of a first offence, with fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees, and in the case of a second or subsequent offence committed within three years of the previous offence, with fine which shall not be less than ten thousand rupees or with imprisonment for a term which may extend to six months, or with both." shall be substituted.

Substitution of new section for section 12.

3. For section 12 of the principal Act, the following section shall be substituted, namely:—

Penalty of practising *phooka, doom dev* or use of oxytocin.

"12. If any person performs upon any cow or other milch animal the operation called *phooka or doom dev* or any other operation (including injection of any substance or oxytocin) to improve lactation which is injurious to the health of the animal or permits such operation being performed upon any such animal in his possession or under his control, he shall be punishable with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with imprisonment for a term which may extend to four years, or with both, and the animal on which the operation was performed shall be forfeited to the Government.".

Amendment of section 20.

4. In section 20 of the principal Act, for the words "which may extend to two hundred rupees", the words "which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees" shall be substituted.

Amendment of section 26.

5. In section 26 of the principal Act, for the words "he shall be punishable on conviction with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both", the words "he shall be punishable on conviction with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with imprisonment which may extend to six months, or with both" shall be substituted.

Substitution of new section for section 31.

6. For section 31 of the principal Act, the following section shall be substituted, namely:

Cognizability of offences.

"31. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act shall be a cognizable offence within the meaning of that Code."

2 of 1974.

Amendment of section 38.

7. In section 38 of the principal Act, for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) If any person contravenes, or abets the contravention of, any rules made under this section, he shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees, or with imprisonment for a term which may extend to six months, or with both.".

STATEMENT OF OBJECTS AND REASONS

Animal cruelty has various forms. It not includes only overt and intentional acts of violence towards animals, but also includes neglect of animals or failure to provide food to them. Animal cruelty can generally be described as any act of omission or commission that causes unnecessary or unreasonable harm to an animal. Cruelty include torturing or beating an animal or confining or transporting an animal in a way that is inappropriate for its welfare or killing an animal in an inhumane manner or failing to provide appropriate or adequate food or water to an animal or failing to provide appropriate treatment for disease or injury or failing to provide appropriate living conditions.

We have seen how Shaktiman, a horse, succumbed to injuries recently in Uttarakhand. It is not Shaktiman, but there are hundreds and thousands of animals which are subjected to cruelty day-in-and-day-out and persons committing such crimes either go scot-free or come out freely by paying a paltry sum as penalty prescribed under the Prevention of Cruelty to Animals Act, 1960.

There are many organizations working in the area of protecting animals and these organizations are receiving complaints of animal cruelty—from acid attacks, brutal stoning, hunting, beating, illegal transport and even poisoning—everyday. It is all happening in spite of the fact that it is one of the Fundamental Duties of every citizen as mentioned in our Constitution to be compassionate to all living creatures. Secondly, animals are one of the most important components, other than plants and microbes, of our ecosystem. So, protection of animals is all the more important for survival and existence of humankind.

Penalties imposed for abuse of animals under the Prevention of Cruelty Act are too meagre. Hence, law enforcement agencies, animal welfare organizations and activities have been demanding for increasing the penalty to deter cruelty against animals. It is pertinent to mention that while the Wildlife Protection Act, 1972 has been amended to strengthen penal provisions, yet, there has been no move to amend the Prevention of Cruelty to Animals Act, 1960.

Hence, it is proposed to strengthen penal provisions in the parent Act to deter persons who indulge in such crime against animals.

The Bill seeks to achieve the above objective.

NEW DELHI;
July 11, 2016.

JAYADEV GALLA

BILL NO. 240 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2016. Short title.

2. After article 21A of the Constitution, the following article shall be inserted, namely:— Insertion of new article 21B.

"21B. *(1)* Every citizen shall have the right to skill education in such manner as Parliament may, by law, determine. Right to skill education.

(*2*) Nothing in clause (*1*) shall prevent the State from making any provision fixing eligibility criteria for providing skill education to citizens.

(*3*) Nothing in this article shall prevent the State from making any special provisions or programmes for physically challenged persons, persons belonging to the Scheduled Castes, the Scheduled Tribes or the Other Backward Classes, divorced women and other weaker sections of the society.".

STATEMENT OF OBJECTS AND REASONS

We are one of the few countries in the world where the working age population will be far in excess of those dependent on them and, as per the World Bank, this will continue for at least three decades till 2040. This has increasingly been recognized as a potential source of significant strength for the national economy, provided we are able to equip and continuously upgrade skills of the population in the working age group.

Hon'ble Prime Minister has rightly said from the Ramparts of Red Fort that we are a youthful nation and our youth is our strength and we want youngsters to be job creators. And, it is also correctly said **"Hunar Hai Toh Kadar Hai**", *i.e.*, "Skill commands respect".

There is no doubt that the Government of India has adopted skill development as a national priority over the next ten years. The Eleventh Five Year Plan detailed a road-map for skill development in India and favoured the formation of Skill Development Missions, both at the National and State Levels. But, nothing tangible has been done so far. We require 330 lakh skilled labour force in building and industry; 140 lakh skilled labour force in real estate services; 350 lakh skilled labour force in auto and auto components sector; 1030 lakh skilled labour force in the infrastructure sector; 127 lakh in healthcare sector and 177 lakh in transport and logistics sector by the year 2020.

We have schemes like National Skill Mission, Deen Dayal Upadhyay Gramin Kaushal Yojana. Moreover, Ministry of Human Resource Development have already proposed to make vocational education an integral part of university system.

But, if one looks at the global scenario *vis-a-vis* India's position in skilled workforce, we are nowhere. China has 47 per cent. skilled workforce; Australia has 60 per cent. UK has 68 per cent; Germany has 74 per cent. Japan has 84 per cent. and Korea has 96 per cent. But, in India with 1.2 billion population, we have only just 2 per cent. skilled workforce in spite of having 356 million young population of 10-24 years when compared to China's 269 million as per United Nation World Population Report.

So, unless and until we capitalize on the demographic dividend, it is very difficult to achieve the goal of getting 7-8 per cent growth and making India as Skill Captain of the World. Secondly, we are getting people with degree and diplomas, but their employability is very limited. We are getting quantity, but without quality. We require both quality and quantity. So, we should lay emphasis in providing skills to youth with emphasis on employability and entrepreneurship. If Skill Education is made as a Fundamental Right on the lines of Right to Education, the objectives of skilling India, making to develop entrepreneurial skills, making India the skill capital of the world, solving the employment problem, giving filling to Make in India campaign, apart from other things, can be achieved.

The Bill seeks to achieve the above objectives.

Hence this Bill.

NEW DELHI;
July 12, 2016.

JAYADEV GALLA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for incorporation of right to skill education in the Fundamental Rights of the citizens. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to give an exact amount of expenditure to be involved. However, it is estimated that an annual recurring expenditure about rupees One thousand crores is likely to be involved.

A non-recurring expenditure of about rupees One thousand crores is also likely to be involved.

BILL NO. 228 OF 2016

A Bill further to amend the Electricity Act, 2003.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Electricity (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution of new section for section 4.

2. For section 4 of the Electricity Act, 2003 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:— 36 of 2003.

National Policy on stand alone systems for rural areas and non-conventional energy systems.

"4. (*1*) The Central Government shall, after consultation with the State Governments, prepare and notify a national policy, permitting stand alone systems (including those based on renewable sources of energy and other non-conventional sources of energy) for rural areas within six months from the date of coming into force of this Act.

(*2*) The Central Government and the concerned State Governments shall jointly create necessary infrastructure in rural areas to harness solar power and other forms of renewable energy to ensure access to electricity to every rural household by the year 2020.".

Amendment of section 6.

3. In section 6 of the principal Act, for the words "electrification of households" the words "electrification of households by the year 2020" shall be substituted.

Insertion of new section 6A.

4. After section 6 of the principal Act, the following section shall be inserted, namely:—

National policy on promotion of use of renewable sources of energy.

"**6A.** *(1)* The Central Government shall, in consultation with the State Governments, as soon as possible but not later than six months from the date of coming into force of this Act, prepare and notify a national policy aimed at encouraging the use of renewable sources of energy to ensure electrification in rural and urban areas.

(2) The Central Government shall, by notification in the Official Gazette, constitute a Fund to—

(i) ensure availability of financial resources for the promotion and use of renewable sources of energy;

(ii) promote research and innovation in the use of renewable sources of energy;

(iii) provide incentives like subsidies or financial assistance to persons who opt for use of non-renewable energy; and

(iv) provide incentives for setting up of small scale industry based on solar energy.

(*3*) The Central Government shall, in consultation with the State Governments and the Appropriate Commission, set the target to be achieved by the States regarding use of renewable sources of energy in generation of electricity.".

STATEMENT OF OBJECTS AND REASONS

The Electricity Act, 2003, seeks to provide, *inter alia*, for generation, transmission, distribution, trading and use of electricity to all areas. The Act was further amended in 2007 to give effect to certain changes that were considered necessary.

As per census 2011 figures, close to 45 per cent of rural India lack access to electricity. Hence, it becomes essential to formulate a time bound dynamic national policy permitting stand alone systems for the use of renewable sources of energy.

The census further indicates that 43 per cent of India's rural households continue to depend on kerosene for lighting. The usage of kerosene for domestic heating and lighting leads to respiratory diseases and impaired eyesight. Therefore, in order to harness a clean, cost-effective and safe source of energy, necessary programmes are required to be framed and implemented in rural areas by the State Governments concerned.

Section 6 of the parent Act provides that the concerned State Governments and the Central Government shall jointly endeavour to provide access to electricity to all areas including villages and hamlets through rural electricity infrastructure and electrification of households. However, more than 33 per cent. of Indian households are still have no access to electricity. Moreover, even in cities, households suffer on account of shortage of power. Therefore, a time-frame to ensure that 400 million people get access to electricity and the mechanism adopted by the Central and the State Governments to resolve these issues is vital.

India is already the fourth largest energy consumer in the world. The Indian economy is fast growing. But, millions of households in the country still lack sufficient energy access. Increasing dependence on oil imports for meeting the country's rising energy needs is becoming a major concern for India's energy security. In light of the above factors, equal stress needs to be put on utilization of the renewable energy sources for generating power in the country. This requires substantial amount of scaling up of renewable energy systems, in addition to conventional systems to cater to needs of different economic and social segments.

Hence this Bill.

NEW DELHI;
July 11, 2016

GOPAL CHINAYYA SHETTY

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for creation of necessary infrastructure to harness solar power and other sources of renewable energy to ensure electrification to rural households by the year 2020. Clause 4 provides for preparation of a national policy aimed at encouraging the use of renewable sources of energy to ensure electrification in rural and urban areas and constitution of a Fund in this regard.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten thousand crore per annum.

A non-recurring expenditure of about rupees two thousand crore is also likely to be involved.

BILL NO. 236 OF 2016

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2016.

(*2*) It shall come into force on such date as Central Government may, by notification in the Official Gazette, appoint.

Amendment of the First Schedule.

2. In the First Schedule to the Code of Criminal Procedure, 1973, under the heading "I.—OFFENCES UNDER THE INDIAN PENAL CODE", for the entries relating to section 353, the following entries shall be substituted, namely:— 2 of 1974.

1	2	3	4	5	6
"353.	Assault or use of criminal force to deter a public servant from discharge of his duty.	Imprisonment for 2 years, or fine, or both.	Non-Cognizable	Bailable	Any Magistrate".

STATEMENT OF OBJECTS AND REASONS

In the First Schedule to the Code of Criminal Procedure 1973, under the heading "OFFENCE UNDER THE INDIAN PENAL CODE" in the entries relating to section 353, the offence of assault on or use of criminal force against a public servant in order to deter him from discharging his duty is cognizable and non-bailable. Before 2005, section 353 of Indian Penal Code was a bailable offence but by the Code of Criminal Procedure (Amendment) Act, 2005, this section was amended and made Non-bailable offence. However, this amendment is being used mostly for political vendetta by incumbent Government.

It often happens that to protest against a decision of the Government or against any incident, political activists use road blockage, dharna-pradarsan, etc. In such cases, the incumbent Government uses this section as result of which people are arrested in violation of the provisions of this section. Therefore, it is necessary to amend the Code of Criminal Procedure in order to make the offence against assault or use of criminal force to deter a public servant from non-bailable to bailable in order to strengthen democratic roots.

Hence this Bill.

NEW DELHI;
July 12, 2016.

VISHNU DAYAL RAM

BILL NO. 234 OF 2016

A Bill further to amend the Consumer Protection Act, 1986.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Consumer Protection (Amendment) Act, 2016.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In section 2 of the Consumer Protection Act, 1986, in sub-section (*1*), in clause (o), after the word "insurance," the words "legal services provided by or availed of from advocates," shall be inserted. 68 of 1986

STATEMENT OF OBJECTS AND REASONS

The Consumer Protection Act, 1986 was enacted to provide better protection of the interests of consumers for the services rendered to them. However, the services rendered by lawyers or advocates are not covered under the purview of the Act despite the fact that they provide professional service to their clients. The inclusion of services of lawyers or advocates under the Act will not only make the advocates accountable to their client but will also improve the delivery of services.

The Bill, therefore, seeks to amend the Consumer Protection Act, 1986 with a view to include the services of advocates within the purview of this Act.

Hence this Bill.

NEW DELHI;
July 18, 2016

SANJAY JAISWAL

BILL NO. 280 OF 2016

A Bill further to amend the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and Commencement.

1. (*1*) This Act may be called the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Amendment Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of Section 4.

3. For Section 4 of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:— 34 of 2003

Prohibition of smoking and use of tobacco products in a public place.

"4. No person shall smoke or use tobacco products in any public place:

Provided that in a hotel having thirty rooms or a restaurant having seating capacity of thirty persons or more and in the airports, a separate provision for smoking area or space may be made:

Provided further that the area or space so designated shall be ventilated in such manner that smoke from smoking area does not permeate into the non-smoking areas.".

Amendment of Section 6.

4. In section 6 of the principal Act,—

(*i*) in clause (a), for the words "eighteen years of age", the words "twenty-one years of age" shall be substituted; and

(*ii*) after clause (b), the following clause shall be inserted, namely:—

"(c) in open packing or in single stick.".

Insertion of new Section 6A.

5. After section 6 of the principal Act, the following section shall be inserted, namely:—

Tobacco products to be sold in intact packages.

"Every tobacco product shall be sold in intact package of such size, content and weight as may be prescribed.".

STATEMENT OF OBJECTS AND REASONS

The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 was enacted to put certain prohibition on use of tobacco products. Section 4 of the Act prohibits smoking in public places. However, no such prohibition is there for use of other tobacco products in public places, which also pose an equal if not more risk to the health and hygiene of general public. Therefore, there is an urgent need to prohibit use of all tobacco products in public places.

Moreover, the Act seeks to prohibit sale of cigarette or other tobacco products to a person below the age of eighteen years. The need is to increase the upper age limit upto twenty-one years in order to mitigate the health risk of the youth of the nation.

Also, the prohibition on sale of cigarettes and tobacco products in loose and single stick is utmost necessary.

The Bill, therefore, seeks to amend the parent Act with a view to—

(a) prohibit use of tobacco products in a public place;

(b) prohibit sale of cigarettes and tobacco products to a person who is under twenty-one years of age; and

(c) prohibit the sale of loose cigarette or tobacco products.

Hence this Bill.

NEW DELHI;
July 12, 2016.

SANJAY JAISWAL

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill provides that every tobacco product shall be sold in intact package of such size, content and weight, as may be prescribed by rules made by Central Government. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 243 OF 2016

A Bill to amend the Hindu Minority and Guardianship Act, 1956.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Hindu Minority and Guardianship (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 6.

2. In section 6 of the Hindu Minority and Guardianship Act, 1956 (hereinafter referred to as the principal Act),— 32 of 1956.

(*i*) in clause (*a*), for the words "the father, and after him, the mother", the words "the father and the mother" shall be substituted; and

(*ii*) in clause (*b*), for the words "the mother, and after her, the father", the words "the mother and the father" shall be substituted.

Amendment of section 7.

3. In section 7 of the principal Act, the words "after him" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Hindu Minority and Guardianship Act, 1956 was enacted as a supplement to the Guardians and Wards Act, 1890 and deals with natural guardians and testamentary guardians incidentally abolishing the *de facto* guardians. The Act, however, does not treat men and women equally which needs to be amended. The Act provides for the father to be the natural guardian of a Hindu minor boy or an unmarried girl and only after him the mother attains the position of a natural guardian.

The various courts have since interpreted the expression "after him" occurring in clause (*a*) of section 6 of the Act in a broad manner to include the absence of the father as well. However, when the father is not absent, only he is subjected to the test of being a guardian for a minor and not the mother, however capable she might be for the same. Therefore, the provisions are required to be amended to provide for the equal treatment of both the parents *i.e.* father and mother of a minor for the purposes of minority and guardianship among the Hindus.

Hence this Bill.

NEW DELHI;
July 20, 2016.

DHARAM VIRA GANDHI

BILL NO. 242 OF 2016

A Bill further to amend the Guardians and Wards Act, 1890.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Guardians and Wards (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Amendment of section 10.

2. In section 10 of the Guardians and Wards Act, 1890 (hereinafter referred to as the principal Act), in sub-section (*1*), for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) whether the minor is married and, if so, the name, religion, date of birth and ordinary residence of the spouse.";

Amendment of section 19.

3. In section 19 of the principal Act, for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) of a minor, who is a married and whose spouse is not, in the opinion of the court, unfit to be a guardian of the person of the minor, or".

Amendment of section 21.

4. In section 21 of the principal Act, for the word "wife" at both the places, the word "spouse" shall be substituted.

Amendment of section 41.

5. In seciton 41 of the principal Act, in sub-section (*1*), for clauses (*d*) and (*e*), the following clauses shall be substituted, namely:—

"(*d*) by the marriage of the ward to a person who is not unfit to be guardian of the person of the ward or, if the guardian was appointed or declared by the Court, by the marriage of the ward to a person who is not, in the opinion of the Court, so unfit; or

(*e*) in the case of a ward whose father or mother was unfit to be guardian of the person of the ward, by the father or mother ceasing to be so or, if the father or mother was deemed by the Court to be so unfit, by his or her ceasing to be so in the opinion of the court.".

STATEMENT OF OBJECTS AND REASONS

The Guardians and Wards Act, 1890 establishes the rights and duties of the guardian of a ward. The responsibility of being a guardian under the Act has been vested only to the husband or the father of a minor. The wife or the mother of a minor also holds the capability to be the guardian of the minor.

In 1890, when the Guardians and Wards Act was enacted, the provisions were well suited for the society. However, with the passage of time, there has been an increased participation of women in every sphere of activities including acting as the head of the family and also as the sole parent of a minor. Keeping this in view, the law should not discriminate on the basis of sex while bestowing the title of guardianship of a minor. The Bill, therefore, seeks to amend the Guardians and Wards Act, 1890 with a view to provide for the removal of discrimination based on gender which takes away the right of a guardianship from women.

Hence this Bill.

NEW DELHI;
July 20, 2016.

DHARAM VIRA GANDHI

BILL NO. 244 OF 2016

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Representation of the People (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new section 32A.

43 of 1951.

2. After section 32 of the Representation of the People Act, 1951, the following section shall be inserted, namely:—

Political Party to allocate forty *per cent.* female and forty *per cent.* male candidates to contest elections.

" 32A. Notwithstanding anything contained in any other law for the time being in force, every political party shall, at every general election to the House of the People and the Legislative Assemblies of States, allocate at least, forty per cent. of the total seats being contested by it to female candidates and forty per cent. of such seats to male candidates:

Provided that in the case of general election to the House of the People, every political party shall also ensure to allocate, at least forty per cent. of the total parliamentary seats being contested by it in any State to female candidates and forty per cent. of such seats to male candidates.".

STATEMENT OF OBJECTS AND REASONS

In the interest of gender equity, there is an urgent need to provide just representation to women in the House of People and the State Legislatures. The need is to empower women to join politics, encourage and ensure their active participation for upholding the true essence of democracy and political representation of the People. The best way to do so is to make a gender-neutral one-line amendment to the Representation of the People Act, 1951 requiring, registered and recognized political parties to nominate at least forty per cent, male and forty per cent. female candidates to contest elections to the House of People and the State Legislative Assemblies. There is overwhelming evidence from across the world that women's representation has increased only when political parties have maintained something close to gender parity on their nomination lists. The amendment obviates the need to rotate constituencies that reservation of seats would require and avoids the unhealthy prospect of women contesting against women within the secluded walls of reserved seats.

Hence this Bill.

NEW DELHI;
July 22, 2016.

SUGATA BOSE

BILL NO. 249 OF 2016

A Bill to establish, incorporate and declare certain law universities to be law universities of national importance and to provide for matters connected therewith or incidental thereto.

WHEREAS in furtherance of the noble cause of imparting global-standard legal education in the country, various State Legislatures have passed laws to establish National Law Universities;

AND Whereas it is desirable to consolidate the State laws providing for establishment of National Law Universities into single Central Legislation with a view to minimize the differences and difficulties arising therein and harmonize their functioning;

BE it enacted by Parliament in the Sixty-seventh year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the National Law Universities of India Act, 2016. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Declaration of Universities under First Schedule as Institutions of National Importance.

2. Whereas the objects of the universities mentioned in the First Schedule are such as to make them institutions of national importance, it is hereby declared that each such university is an institution of national importance.

Definitions.

3. In this Act, unless the context otherwise requires:

(*1*) "Academic Council" means the Academic Council of the Universities;

(*2*) "Bar Council" means the Bar Council of respective States constituted under the Advocates Act, 1961; 25 of 1961.

(*3*) "Bar Council of India" means the Bar Council of India constituted under the Advocates Act, 1961; 25 of 1961.

(*4*) "Chancellor" means the Chancellor of the Universities:

(*5*) "The Chief Justice" when not referring to the Chief Justice of India appointed by the President of India under article 134 of the Constitution of India, means the Chief Justice of the High Court of the respective State where the University is situated and also includes and acting Chief Justice;

(*6*) "corresponding National University" in reference to a State university means the national university mentioned in column 3 of the First Schedule against that State university;

(*7*) "Executive Council" means the Executive Council of the Universities;

(*8*) "Finance Committee" means the Finance Committee of the Universities;

(*9*) "Governing Council" means the Governing Council of the Universities;

(*10*) "National Council" means National Council established under section 13;

(*11*) "prescribed" means prescribed by rules made under this Act;

(*12*) "Registrar" means the Registrar of the Universities;

(*13*) "Regulations" and "Statutes" in relation to any State University, means the Regulations and Statutes, respectively, of the corresponding National Universities made under this Act;

(*14*) "State University" means any of the Universities mentioned in column 2 of the First Schedule;

(*15*) "Universities" means the National Law Universities of India, mentioned under column 3 of the First Schedule; and

(*16*) "Vice-Chancellor" means the Vice-Chancellor of the Universities.

CHAPTER II

THE UNIVERSITIES

Establishment and incorporation of the Universities.

4. (*1*) Each of the universities mentioned in column 2 of the First Scheduled shall be established as bodies corporate under this Act by the names respectively assigned to each such university under column 3 of that Schedule having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire and hold property, to contract and sue and be sued by its name.

(*2*) The body corporate constituting each of the said universities shall consist of a Chancellor, a Vice-Chancellor and other members of the Governing Council of the University.

Effect of incorporation.

5. On and from the commencement of this Act,—

(*a*) any reference to a State University in any law, other than this Act or in any contract or instrument, shall be deemed as a reference to the corresponding National University;

(*b*) all property, movable and immovable, of or belonging to a State University shall vest in the corresponding National University;

(*c*) all the rights and liabilities of a State University shall be transferred to, and be the rights and liabilities of the corresponding National University; and

(*d*) every person employed by a State University immediately before such commencement shall hold his office or service in the corresponding National University for the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held if this Act had not been passed, and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the University in accordance with the terms of contract with the employee or, if no provision is made therein in this behalf, on payment to him by the University, of compensation equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees.

Objects of the Universities.

6. The objects of the Universities shall be—

(*a*) to provide multi-disciplinary education in legal studies, keeping in view the demands of the global economy and the needs of the domestic society;

(*b*) to evolve and impart comprehensive legal education at all levels to achieve excellence;

(*c*) to organise advanced studies and promote research in all branches of law;

(*d*) to disseminate legal knowledge, legal processes and their role in national development by organising lectures, seminars, symposia, workshops and conferences;

(*e*) to promote cultural, legal and ethical values with a view to promote and foster the rule of law and the objectives enshrined in the Constitution of India;

(*f*) to improve the ability to analyse and present for the benefit of the public, contemporary issues of public concern and their legal implications;

(*g*) to liaise with institutions of higher learning and research in India and abroad;

(*h*) to publish periodicals, treatises, study books, reports, journals and other literature on all subjects relating to law;

(*i*) to hold examinations and confer degrees and other academic distinctions;

(*j*) to promote legal awareness in the community for achieving social and economic justice for all;

(*k*) to undertake studies and training projects relating to law, legislation and judicial institutions;

(*l*) to promote inter-disciplinary study of law in relation to management, technology, international co-operation and development;

(*m*) to develop in the students and the research scholars a sense of responsibility to serve society in the field of law by developing skills in regard to advocacy, legal services, legislation, parliamentary practices, law reforms and other such matters; to make law and legal processes efficient instruments of social development;

(*n*) to assist and provide advice to the Central and the State Governments on matters pertaining to law, legislation and judicial institutions; and

(*o*) to do all such things as are incidental, necessary or conducive to the attainment of all or any of the objectives of the Universities.

Powers of the University.

7. The powers of the University shall be—

(*a*) to administer and manage the University and such centres for study, research, education and instructions as are necessary for furtherance of the objects of the University;

(*b*) to provide for instructions in all branches of knowledge or learning pertaining to law and allied subjects as the University may deem fit;

(*c*) to make provisions for research and for the advancement and dissemination of knowledge of law including through distance learning and continuing education programmes;

(*d*) to hold examinations and to confer degrees, titles, diplomas and other academic distinctions on persons subject to such conditions as the University may determine and to withdraw any such degrees, titles, diplomas and other academic distinctions subject to such conditions as the University may determine;

(*e*) to fix, demand and receive fees and other charges as may be prescribed;

(*f*) to institute and maintain halls and hostels and to recognize places of residence for the students of the University and to withdraw such recognition accorded to any such place of residence;

(*g*) to establish special centres, specialized study centres or other units for research and instructions as are, in the opinion of the University, necessary in furtherance of its objects;

(*h*) to supervise and control the residence and to regulate the discipline of the students and staff of the University and to make arrangements for promoting their health and general welfare;

(*i*) to make such special arrangements as are necessary in respect of residence, discipline and teaching of women students;

(*j*) to create academic, technical, administrative, ministerial and other posts and to make appointments thereto;

(*k*) to regulate and enforce discipline among the employees of the University and to take such disciplinary measures as may be deemed necessary;

(*l*) to institute professorships, associate professorships, assistant professorships, readerships, lecturerships and any other teaching, academic or research posts required by the University;

(*m*) to appoint persons as professors, associate professors, assistant professors, readers, lecturers or otherwise as teaching and researchers of the University and as other classes of employees;

(*n*) to institute and award fellowships, scholarships, prizes and medals;

(*o*) to provide for printing, reproduction and publication of research and other works and to organize exhibitions;

(*p*) to sponsor and undertake research in all aspects of law, justice and social development;

(*q*) to co-operate with any other organizations in the matter of education, training and research in law, justice, social development and allied subjects for such purposes

as may be agreed upon on such terms and conditions as the University may from time to time determine;

(*r*) to co-operate with institutions of higher learning in any part of the world having objects wholly or otherwise similar to those of the University by exchange of teachers and scholars and generally in such manner as may be conducive to the common objects;

(*s*) to regulate the expenditure and to manage accounts of the University;

(*t*) to establish and maintain within the premises of the University or elsewhere such schools, colleges and study halls as the University may consider necessary and adequately furnish the same to establish and maintain such libraries and reading rooms as may appear convenient or necessary for the University;

(*u*) to receive grants, subventions, subscriptions, donations and gifts for the purpose of the University consistent with the objects for which is the University established;

(*v*) to purchase, take on lease, or accept as gifts, or otherwise any land or building or works, which may be necessary or convenient for the purpose of the University and on such terms and conditions as it may think fit and proper and to construct or alter and maintain any such building or works;

(*w*) to sell, exchange, lease or otherwise dispose of all or any portion of the properties of the University, movable or immovable, on such terms and conditions as it may think fit and proper without prejudice to the interests and activities of the University;

(*x*) to draw and accept, to make and endorse, to discount and negotiate promissory notes, bills of exchanges, cheques or other negotiable instruments;

(*y*) to execute conveyances, transfers, re-conveyances, mortgages, leases, licences and agreements in respect of property, movable or immovable including government securities belonging to the University or to be acquired for the purpose of the University;

(*z*) to appoint in order to execute an instrument or transact any business of the University any person as it may deem fit;

(*za*) to give up and cease from carrying on any classes or departments of the University;

(*zb*) to enter into any agreement with the Central Government, State Government, the University Grants Commission or other authorities for receiving grants;

(*zc*) to accept grant of money, securities or property of any kind or description on such terms and conditions as may be deemed expedient;

(*zd*) to raise and borrow money on bonds, mortgages, promissory notes or other obligations or securities founded or based upon all or any of the properties and assets of the University or without any securities and upon such terms and conditions as it may think fit and to pay out of the funds of the University, all expenses incidental to the raising of money, and to repay and redeem any money borrowed or debt made;

(*ze*) to invest the funds of the University or money entrusted to the University in or upon such securities or deposits and in such manner as it may deem fit and from time to time transpose any investments;

(*zf*) to make such Statutes, Regulations and other instruments as may, from time to time, be considered necessary for regulating the affairs and the management of the University and its properties and to alter, modify and to rescind them;

(*zg*) to constitute for the benefit of the academic, technical, administrative and other staff, in such manner and subject to such conditions as may be prescribed pension, insurance, provident fund and gratuity and other schemes as it may deem fit and to make such grants as it may think fit for the benefit of the staff of the University and to aid in the establishment and support of associations, institutions, funds and trusts for the benefit of the staff and the students of the University;

(*zh*) to confer honorary degress and other distinctions in the manner laid down in the regulations;

(*zi*) to delegate all or any of its powers to the Vice-Chancellor or any committee or to any one or more members of the Councils of the University or its officers; and

(*zj*) to do all such other acts and things as the University may consider necessary, conducive or incidental to the attainment or enlargement of the aforesaid objects or any of them.

Admission and Appointment to the Universities.

8. (*1*) The Universities shall, subject to the provisions of this Act and the regulations, be open to all persons of all sex and of whatever race, creed, caste or class, place of birth and no test or condition shall be imposed as to religious belief or profession in appointing members of the authorities of the Universities or any other office bearers, admitting students, appointing teachers or workers or in any other connection whatsoever.

(*2*) Nothing contained in sub-section (*1*) shall require the Universities—

(*a*) to admit to any course of study any person who does not possess the prescribed academic qualification or standard;

(*b*) to retain on the rolls of the Universities any student whose academic record is below the minimum standard required for the award of a degree or other academic distinction; or

(*c*) to admit any person or retain any student whose conduct is prejudicial to the interest of the Universities or the rights and privileges of other students and teachers.

(*3*) No bequest, donation or transfer of any property, which involves conditions or obligations opposed to the spirit and object of this section, shall be accepted by any University.

(*4*) Subject to the provisions of sub-sections (*1*) and (*2*), the State Government may, by order, direct that the University shall reserve such per cent. of seats therein—

(*a*) for resident students of the State, as the State Government shall in that order define and specify, which shall not exceed fifty per cent. of the total seats of the University excluding seats reserved in clause (*b*);

(*b*) for the students belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes and any other backward class as the State Government may notify in that order.

Teaching in the Universities.

9. (*1*) All teaching at each of the Universities shall be conducted by or in the name of the respective Universities in accordance with the Statutes and Regulations made in this behalf.

(*2*) All teaching in connection with the degrees, diplomas and certificates of the University shall be conducted in accordance with the syllabi prescribed by the Regulations.

(*3*) The courses and curricula and the authorities responsible for organizing the teaching of such courses and curricula shall be such as prescribed by the Regulations.

Visitor of the Universities.

10. (*1*) The Chief Justice of India shall be the Visitor of every University.

(*2*) The Visitor may appoint one or more persons, who shall be senior Judges of the Supreme Court, to review the work and progress of any University and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(*3*) Upon receipt of any such report, the Visitor may take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the University shall be bound to comply with such directions.

(*4*) The Visitor when present shall preside over the convocations of the University and the meetings of the Governing Council.

Chancellors of the Universities.

11. (*1*) The Chief Justice shall be the Chancellor of every University as mentioned in the Second Schedule.

(*2*) The Chancellor, when present and in the absence of the Visitor, shall preside over the convocations of the University and the meetings of the Governing Council.

(*3*) The Chancellor may cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, libraries and equipment and of any institution maintained by the University, and also of the examinations, teaching and other work conducted or done by the University and cause an inquiry to be made in the like manner in respect of any matter connected with the administration and finances of the University.

(*4*) The Chancellor may offer such advice to the University as he may deem fit with reference to the result of such inspection or inquiry.

(*5*) The University shall communicate to the Chancellor the action taken or proposed to be taken on such advice.

(*6*) In case of differences among the authorities or officers of the University on any matter which cannot be otherwise resolved, the decision of the Chancellor shall be final.

(*7*) The Chancellor may invite a person or persons of eminence in law and legal education to advise the University in relation to affairs of the University as and when he deems it necessary.

Vice-Chancellors of the Universities.

12. (*1*) There shall be a Vice-Chancellor of the University who shall be appointmented in the manner as provided in section 27.

(*2*) The term of the Vice-Chancellor shall be for a period of five years, and shall be eligible for re-appointment till he attains the age of seventy years.

CHAPTER III

THE NATIONAL COUNCIL

The National Council.

13. (*1*) With effect from such date as the Central Government shall, by notification in the Official Gazette, specify in this behalf, there shall be established a central body to be called the National Council.

(*2*) The National Council shall consist of the members, namely:—

(*a*) the Union Minister of Law and Justice, Chairperson, *ex officio*;

(*b*) the Vice-Chancellor of each University, member, *ex officio*;

(*c*) the Registrar of each University, member, *ex officio*;

(*d*) the Chairman, University Grants Commission, member, *ex officio*;

(*e*) the Chairman, Bar Council of India, member, *ex officio*;

(*f*) two persons to represent the Union Ministry of Law and Justice, two persons to represent the Ministries of Finance and Human Resource Development and one person to represent any other Ministry to be nominated by the Central Government;

(*g*) not less than three, but not more than five, persons to be nominated by the Visitor, who shall be persons having special knowledge or practical experience in field of law, legislation or social sciences;

(*h*) three Members of Parliament, of whom two shall be from the House of the People and one from the Council of States to be elected from amongst the members of each House.

(*3*) An officer of the Ministry of Law and Justice of the Central Government shall be nominated by that Government to act as the Secretary of the Council.

The term of office of the National Council.

14. (*1*) Save as otherwise provided in this section, the term of office of a member of the National Council shall be three years from the date of his nomination or election, as the case may be.

(*2*) A member of the National Council referred to in clause (*f*) of sub-section (*2*) of section 13 shall hold office during the pleasure of the Central Government.

(*3*) The term of office of a member elected under clause (*h*) of sub-section (*2*) of section 13 shall expire as soon as he ceases to be a member of the House of Parliament which he represents.

(*4*) The term of office of a member nominated or elected to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he has been nominated or elected.

(*5*) Notwithstanding anything contained in this section, an outgoing member shall, unless the Central Government otherwise directs, continue in office until another person is nominated or elected as a member in his place.

Functions and duties of the National Council.

15. (*1*) It shall be the general duty of the National Council to co-ordinate the activities of all the Universities.

(*2*) Without prejudice to the provisions of sub-section (*1*), the National Council shall perform the following functions, namely:—

(*a*) mentoring of the Universities in all spheres;

(*b*) to advise on matters relating to the common admission test to be conducted by the Universities and to co-ordinate and work harmoniously with the Legal Education Committee of the Bar Council of India to decide on matters of academic standards and other academic matters;

(*c*) to lay down policy regarding cadres, methods of recruitment and conditions of service of employees, institution of scholarships and freeships, levying of fees and other matters of common interest;

(*d*) to examine the development plans of each University and to approve such of them as are considered necessary and also to indicate broadly the financial implications of such approved plans;

(*e*) to examine the annual budget estimates of each University and to recommend to the Central Government the allocation of funds for that purpose;

(*f*) to advise the Visitor, if so required, in respect of any function to be performed by him under this Act;

(*g*) to decide upon inter-University disputes and student grievances referred to it; and

(*h*) to perform such other functions as are assigned to it by or under this Act.

(*3*) Notwithstanding anything contained in this section, the Bar Council of India shall have the same rights and privileges as envisaged in sections 7(*1*)(*h*) and 7(*1*)(*i*) of the Advocates Act, 1961 and no rule made by the National Council shall be in direct contravention of the rules framed by the Bar Council of India for that purpose unless there is sufficient reason to the contrary in the best interests of the legal education.

Meetings of the National Council.

16. (*1*) The Chairperson of the National Council shall ordinarily preside at the meetings of the National Council.

(*2*) It shall be the duty of the Chairperson of the National Council to ensure that the decisions taken by the National Council are implemented.

(*3*) The Chairperson shall exercise such other powers and perform such other duties as are assigned to him by this Act.

(*4*) The National Council shall meet at least once every year and the date shall be fixed by the Chairperson, who shall give not less than fifteen days' notice to all the members.

CHAPTER IV

AUTHORITIES OF THE UNIVERSITIES

Authorities of the Universities.

17. Each University shall have the following authorities, namely:

(*a*) the Governing Council;

(*b*) the Executive Council;

(*c*) the Academic Council;

(*d*) the Dispute Redressal Committee;

(*e*) the Finance Committee; and

(*f*) such other authorities as may, from time to time, be declared as such by the Statutes.

Governing Council and its term of the Office.

18. (*1*) The Governing Council shall be the supreme authority of the University and shall consist of the following persons, namely:—

(*a*) the Chancellor;

(*b*) the Vice-Chancellor;

(*c*) two persons from amongst the sitting Judges of the High Court of the respective State, nominated by the Chancellor;

(*d*) one person from amongst the former Judges of the High Court of the respective State, nominated by the Chancellor;

(*e*) the Chairman, Bar Council of India;

(*f*) the Chairman of the Bar Council of the respective State;

(*g*) two pre-eminent persons in the disciplines of social sciences or humanities, nominated by the Chancellor;

(*h*) two pre-eminent persons in the legal and educational fields, nominated by the Chancellor;

(*i*) the Chief Secretary to the State Government concerned;

(*j*) the Principal Secretary, Finance Department of the State Government concerned;

(*k*) the Secretary of Higher Education of the State Government concerned; and

(*l*) the Principal Secretary of Law, Justice and Legislative Affairs of the State Government concerned.

(*2*) Where a person has become a member of the Governing Council by reason of the office or appointment he holds, his membership shall terminate when he ceases to hold that office or appointment.

(*3*) The term of office of the nominated members of the Governing Council shall be three years.

(*4*) A member of the Governing Council shall cease to be a member if he resigns or becomes of unsound mind or becomes insolvent or is convicted of a criminal offence involving moral turpitude.

(*5*) A member, other than the Vice-Chancellor, shall cease to be member if he accepts a full-time appointment in the University, or if he, not being an *ex-officio* member, fails to attend three consecutive meetings of the Governing Council without the leave of the Chancellor.

(*6*) A member of the Governing Council, other than an *ex-officio* member, may resign from his office by a letter addressed to the Chancellor and such resignation shall take effect as soon as it has been accepted by the Chancellor.

(*7*) Any vacancy in the Governing Council shall be filled by nomination by the respective nominating authority.

Powers, functions and meetings of the Governing Council.

19. (*1*) The Governing Council shall be the plenary authority of the University and shall formulate and review from time to time the broad policies and programmes of the University and devise measures for the improvement and development of the University and shall also have the following powers and functions, namely:—

(*a*) to consider and pass the annual report, financial statement and the budget estimates prepared by the Executive Council and to adopt them with or without modification;

(*b*) to make Statutes concerning the administration of the affairs of the University including prescribing the procedures to be followed by the authorities and the officers of the University in the discharge of their functions.

(*2*) The Governing Council shall meet at least once in a year, to be presided over by the Chancellor of the University, and in his absence, by any senior judge of the High Court to be nominated by the Chancellor.

(*3*) An annual meeting of the Governing Council shall be held on a date to be fixed by the Executive Council, unless some other date has been fixed by the Governing Council in respect of any year.

(*4*) A report on the working of the University during the previous year, together with a statement of receipt and expenditure, the balance sheet as audited, and the financial estimates shall be presented by the Vice-Chancellor to the Governing Council at its annual meeting.

(*5*) The meetings of the Governing Council shall be called by the Chancellor or by the Vice-Chancellor either on his own or at the request of not less than ten members of the Governing Council.

(*6*) For every meeting of the Governing Council, fifteen days' notice shall be given.

(*7*) One-half of the members existing on the rolls of the Governing Council shall form the quorum.

(*8*) Each member shall have one vote and if there be equality of votes on any question to be determined by the Governing Council, the person presiding over the meeting shall, in addition, have a casting vote.

(*9*) In case of difference of opinion among the members, the opinion of the majority shall prevail.

(*10*) If urgent action by the Governing Council becomes necessary, the Vice-Chancellor may permit the business to be transacted by circulation of papers to the members of the Governing Council.

(*11*) The action proposed under sub-section (*10*) shall not be taken unless agreed to by a majority of members of the Governing Council.

(*12*) The action taken under sub-section (*11*) shall be forthwith intimated to all members of the Governing Council.

(*13*) In case the authority concerned fails to arrive at a decision, the matter shall be referred to the Chancellor, whose decision shall be final.

Executive Council.

20. (*1*) The Executive Council shall consist of the following persons, namely:—

(*a*) the Vice-Chancellor of the University;

(*b*) the Chairman of the Bar Council of India;

(*c*) the Chairman of the Bar Council of the respective State;

(*d*) the Principal Secretary, Finance Department of the State Government concerned;

(*e*) the Secretary of Higher Education of the State Government concerned;

(*f*) the Principal Secretary, Law, Justice and Legislative Affairs, of the State Government concerned;

(*g*) three Professors of Law, who shall be eminent jurists, from outside the University to be nominated by the Chancellor;

(*h*) two teachers of the University to be nominated by the Vice-Chancellor, of whom one shall be from amongst the professors and one from amongst the associate professors of the University, by rotation, for a period of one year.

(*2*) The Vice-Chancellor shall be the Chairperson of the Executive Council.

(*3*) Where a person has become a member of the Executive Council by reason of the office or appointment he holds, his membership shall terminate when he ceases to hold that office or appointment.

(*4*) The term of office of the nominated members of the Executive Council shall be three years.

(*5*) A member of the Executive Council shall cease to be a member if he resigns or becomes of unsound mind or becomes insolvent or is convicted of a criminal offence involving moral turpitude.

(*6*) A member, other than the Vice-Chancellor or teacher, shall also cease to be a member if he accepts a full-time appointment in the University, or if he, being a teacher fails to attend three consecutive meetings of the Executive Council without the leave of the Vice-Chancellor.

(*7*) A member of the Executive Council, other than an *ex-officio* member, may resign from his office by a letter addressed to the Vice-Chancellor, and such resignation shall take effect as soon as it has been accepted by him.

(*8*) Any vacancy in the Executive Council shall be filled by nomination by the respective nominating authority and on expiry of the period of vacancy, such nomination shall cease to be effective.

Powers, functions and meetings of the Executive Council.

21. (*1*) The Executive Council shall be the chief executive authority of the University and, as such, shall have all powers necessary to administer the University subject to the provisions of this Act and the Statutes made thereunder; and may make Regulations for that purpose and also with respect to matters provided hereunder.

(*2*) The Executive Council shall have the following powers and functions, namely:—

(*a*) to recommend the names of three persons to the Chancellor for appointment as Registrar of the University on the recommendations of the selection committee constituted for that purpose by it and headed by the Vice-Chancellor;

(*b*) to prepare and present to the Governing Council at its annual meeting:—

(*i*) a report on the working of the University;

(*ii*) a Statement of accounts as under section 35; and

(*iii*) budget proposals for the ensuing academic year;

(*c*) to manage and regulate the finances, investments, properties, business and all other administrative affairs of the University and for that purpose, constitute committees and delegate the powers to such committees or such officers of the University as it may deem fit;

(*d*) to invest any money belonging to the University, including any unapplied income in such stock, funds, shares or securities, as it may, from time to time, think fit, or in the purchase of immovable property in India, with the like power of varying such investments from time to time;

(*e*) to transfer or accept transfer of any moveable or immovable property on behalf of the University;

(*f*) to enter into, amend, execute and cancel contracts on behalf of the University and for that purpose to appoint such officers as it may think fit;

(*g*) to provide the buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;

(*h*) to entertain, adjudicate upon, and if it thinks fit, to redress any grievances of the officers, teachers, students and employees of the University;

(*i*) to create teaching, administrative, ministerial and other necessary posts, to determine the number of and emoluments for such posts, to specify the minimum qualifications for appointment to such posts on such terms and conditions of service as may be prescribed by the Regulations made in this behalf;

(*j*) to appoint examiners and moderators, and if necessary to remove them and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic Council;

(*k*) to select a common seal for the University; and

(*l*) to exercise such other powers and to perform such other duties as may be considered necessary, or imposed on it by or under this Act.

(*3*) The Executive Council shall meet, at least, once in three months and not less than fifteen days notice shall be given of such meetings.

(*4*) The meeting of the Executive Council shall be called by the Registrar under instructions of the Vice-Chancellor or at the request of not less than five members of the Executive Council.

(*5*) One-half of the members of the Executive Council shall form the quorum at any meeting.

(*6*) In case of difference of opinion among the members, the opinion of the majority shall prevail.

(*7*) Each member of the Executive Council shall have one vote and if there be equality of votes on any question to be determined by the Executive Council, the Chairperson of the Executive Council or as the case may be, the member presiding over that meeting shall, in addition, have a casting vote.

(*8*) Every meeting of the Executive Council shall be presided over by the Vice-Chancellor or in his absence by a member chosen by the members present.

(*9*) If urgent action by the Executive Council becomes necessary, the Vice-Chancellor may permit the business to be transacted by circulation of papers to the members of the Executive Council.

(*10*) The action so proposed to be taken shall not be taken unless agreed to by a majority of members of the Executive Council.

(*11*) The action so taken shall be forthwith intimated to all the members of the Executive Council.

(*12*) In case the authority concerned fails to take a decision, the matter shall be referred to the Chancellor whose decision shall be final.

Academic Council.

22. (*1*) The Academic Council shall consist of the following persons, namely:—

(*a*) the Vice-Chancellor who shall be the Chairman;

(*b*) three persons from outside the University from amongst educationists of repute or men of letters or members of the legal profession or eminent public men, who are not in the service of the University, to be nominated by the Chancellor;

(*c*) a nominee of the Bar Council of India;

(*d*) Heads of all the Departments of the University;

(*e*) two members of the teaching staff, one each respectively representing the associate and assistant professors of the University to be, nominated by the Vice-Chancellor for a period of one year on rotation.

(*2*) The term of the members, other than *ex-officio* members and those whose term is specified by clause (*e*) of sub-section (*1*), shall be three years.

Powers, functions and meetings of the Academic Council.

23. (*1*) Subject to the provisions of this Act, Statutes and Regulations and overall supervision of the Executive Council, the Academic Council shall manage the academic affairs and matters in the University and, in particular, shall have the following powers and functions, namely:—

(*a*) to report on any matter referred or delegated to it by the Governing Council or the Executive Council;

(*b*) to make recommendations to the Executive Council with regard to the creation, abolition or classification of teaching posts in the University and the emoluments payable and the duties attached thereto;

(*c*) to formulate and modify or revise schemes for the organization of the faculties, and to assign to such faculties their respective subjects and also to report to the Executive Council as to the expediency of the abolition or sub-division of any faculty or the combination of one faculty with another;

(*d*) to recommend arrangements for the instruction and examination of persons other than those enrolled in the University;

(*e*) to promote research within the University and to require, from time to time, reports on such research;

(*f*) to consider proposals submitted by the faculties;

(*g*) to lay down policies for admission to the University;

(*h*) to recommend recognized diplomas and degrees of other Universities and institutions and to determine their equivalence in relation to the certificates, diplomas and degrees of the University;

(*i*) to fix, subject to any conditions accepted by the Governing Council, the time, mode and conditions of competition for fellowships, scholarships and other prizes and to recommend for award of the same;

(*j*) to make recommendations to the Executive Council in regard to the appointment of examiners and, if necessary, their removal, fixation of their fees, emoluments, travelling and other expenses;

(*k*) to recommend arrangements for the conduct of examinations and the dates for holding them;

(*l*) to declare or review the result of the various examinations or to appoint committees or officers to do so, and to make recommendations regarding the conferment or grant of degrees, honours, diplomas, licences, titles and marks of honor;

(*m*) to recommend stipends, scholarships, medals and prizes and to make other awards in accordance with the Regulations and such other conditions as may be attached to the awards;

(*n*) to approve or revise lists of prescribed or recommeded textbooks and to publish the same and syllabus at the prescribed courses of study;

(*o*) to approve such forms and the registers as are, from time to time, required by the Regulations;

(*p*) to formulate, from time to time, the desired standards of legal education to be adhered to in drawing up the curriculum/syllabi for being taught in the University; and

(*q*) to perform, in relation to academic matters, all such duties and to do all such acts as may be necessary for the proper implementation of the provisions of this Act and the Regulations made thereunder.

(*2*) The Academic Council shall meet as often as may be necessary, but not less than two times during an academic year.

(*3*) One-half of the existing members of the Academic Council shall form the quorum for a meeting of the Academic Council.

(*4*) In case of difference of opinion among the members, the opinion of the majority shall prevail.

(*5*) Each member of the Academic Council, including the Chairperson of the Academic Council, have one vote and if there be an equality of votes on any question to be determined by the Academic Council, the Chairman of the Academic Council, or, as the case may be, the member presiding over the meetings, shall in addition, have a casting vote.

(*6*) Every meeting of the Academic Council shall be presided over by the Vice-Chancellor and in his absence by a member chosen in the meeting to preside on the occasion.

(*7*) If urgent action by the Academic Council becomes necessary, the Chairperson of the Academic Council may permit the business to be transacted by circulation of the papers to the members of the Academic Council.

(*8*) The action proposed to be taken shall not be taken unless agreed to, by a majority of the members of the Academic Council.

(*9*) The action so taken shall forthwith be intimated to all the members of the Academic Council.

(*10*) In case the authority concerned fails to take a decision, the matter shall be referred to the Chancellor whose decision shall be final.

Dispute Redressal Committee.

24. (*1*) There shall be a Dispute Redressal Committee to redress the dispute that may arise between the management and staff, management and students, teachers and students and teachers and management, comprising:—

(*a*) the Vice-Chancellor or his nominee;

(*b*) one member of the Executive Council, nominated by the Chancellor;

(*c*) one member, nominated by the Chancellor, who is not part of any of the council or committees to the University and who is a distinguished law academic with at least fifteen years' experience in a similar institution.

(*2*) The Registrar shall be the Convenor of the Disputes Redressal Committee.

(*3*) Where the dispute relates to a complaint of sexual harassment, the Dispute Redressal Committee shall constitute an *ad hoc* Sexual Harassment Committee, which shall consist of such members, as may be prescribed, and shall dissolve upon resolution of the complaint.

(*4*) The Executive Council or any smaller body that may be constituted by the Executive Council for this purpose shall be the appellate authority.

(*5*) The rules and regulations governing the functioning of the Dispute Redressal Committee and the appellate authority shall be framed by the Executive Council.

Finance Committee.

25. (*1*) There shall be a Finance Committee constituted by the Executive Council consisting of the following, namely:—

(*a*) the Vice-Chancellor;

(*b*) the Principal Secretary, Finance Department of the State Government; and

(*c*) three other members to be nominated by the Executive Council from amongst its members of whom one shall be a professor.

(*2*) The members of the Finance Committee, other than the Vice-Chancellor and the Professor, shall hold office so long as they continue as members of the Executive Council.

(*3*) The functions and duties of the Finance Committee shall be as follows:—

(*a*) to examine and scrutinize the annual budget of the University and to make recommendations on financial matters to the Executive Council;

(*b*) to consider all proposals for new expenditure and to make recommendations to the Executive Council;

(*c*) to consider the periodical statements of accounts as formed under section 35 and to review the finances of the University from time to time and to consider re-appropriation statements and audit reports and to make recommendations to the Executive Council;

(*d*) to give its views and to make recommendations to the Executive Council on any financial question affecting the University either on its own initiative or on reference from the Executive Council or the Vice-Chancellor.

(*4*) The Finance Committee shall meet at least thrice in every year and three members of the Finance Committee shall form the quorum.

(*5*) The Vice-Chancellor shall preside over the meetings of the Finance Committee and, in his absence, a member elected at the meeting shall preside.

(*6*) The decision of the Finance Committee shall be taken by the majority of the members present.

CHAPTER V

OFFICERS OF THE UNIVERSITIES

Officers of the Universities.

26. Each University shall have the following officers, namely:

(*a*) the Vice-Chancellor;

(*b*) the Registrar;

(*c*) the Heads of the Departments;

(*d*) such other officers as may, from time to time, be declared as such by the Statutes and Regulations.

The Vice-Chancellor.

27. (*1*) The Vice-Chancellor shall be an academic person and an outstanding scholar in law or an eminent jurist and shall be a whole-time salaried officer of the University.

(*2*) The Vice-Chancellor shall be appointed by the Chancellor on the recommendations of the Governing Council from out of a panel of not less than three persons recommended (the names being arranged in the alphabetical order) by a Selection Committee constituted under sub-section (*3*);

Provided that if the Chancellor does not approve of any of the persons so recommended, he may call for fresh recommendations.

(*3*) The Selection Committee referred to in sub-section (*2*) shall consist of three members of whom one shall be nominated by the Executive Council, one by the Chairman, University Grants Commission and one by the Chancellor from amongst the retired or serving Judges of the High Court of the respective State.

(*4*) The person nominated to the Selection Committee by the Chancellor shall be the Convenor of the Selection Committee;

Provided that no person who is an employee of the University shall be nominated as the member of the Selection Committee.

(*5*) The Vice-Chancellor shall hold office for a term of five years, or such less period as the Governing Council may decide, from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier, and he shall be eligible for re-appointment for further term till he attains the age of seventy years;

Provided that the Chancellor may require the Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him.

(*6*) It shall be competent for the Chancellor to accept the resignation of the Vice-Chancellor.

(*7*) The emoluments and other conditions of service of the Vice-Chancellor shall be as prescribed by Statutes.

(*8*) If the offfice of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or if he is unable to perform his duties due to ill health or any other cause, the Chancellor shall have the authority to designate a professor of the University to perform the functions of the Vice-Chancellor until the new Vice-Chancellor assumes his office or until the existing Vice-Chancellor attends to the duties of his office, as the case may be:

(*9*) The Vice-Chancellor shall be the academic head and principal executive officer of the University and shall—

(*a*) ensure that the provisions of this Act, Statutes and Regulations are duly observed, and he shall have all powers as are necessary for that purpose;

(*b*) convene the meetings of the Governing Council, the Executive Council, the Academic Council and shall perform all other acts, as may be necessary to give effect to the provisions of this Act;

(*c*) preside over the meetings of the Governing Council in the absence of the Chancellor;

(*d*) be the competent authority to appoint the teachers, librarians, finance officer and other officers in consultation with the Chancellor on the recommendations of the Selection Committee appointed by the Executive Council thereof for that purpose in accordance with the guidelines prescribed;

(*e*) be the competent authority to take disciplinary action against the above officers in accordance with the procedure prescribed;

(*f*) have all powers relating to the maintenance of proper discipline in the University.

(*g*) if, in his opinion, any emergency has arisen which requires that immediate action be taken, he shall take such action as he may deem fit and shall report the same for confirmation in the next meeting of the authority which, in the ordinary course, would have dealt with the matter.

Registrar.

28. (*1*) The Registrar, who shall be an academic person in law not below the rank of a Professor, shall be appointed by the Chancellor on the recommendation of the selection committee. Constituted by the Executive Council and headed by the Vice-Chancellor, on such terms and conditions of service as the selection committee may specify subject to the provisions of the Statutes and Regulations.

(*2*) The Registrar shall,—

(*a*) be *ex-officio* Secretary of all the authorities, committees and other bodies of the University and shall also be the Convenor of all the meetings, other than those which the Vice-Chancellor shall convene, and shall prepare notes and maintain the minutes of the meeting;

(*b*) be the principal adjutant of the Vice-Chancellor in all matters pertaining to the administration of the University;

(*c*) exercise special responsibilities and powers as may be entrusted by the Executive Council;

(*d*) have the power to appoint, with the approval of the Vice-Chancellor, the non-teaching staff, including employees of last grade service and contingent staff in pursuance of the recommendations of the selection committee, appointed for that purpose, in the prescribed manner and shall be the competent authority to take disciplinary action against such employees in accordance with such procedure as may be prescribed;

(*e*) comply with all directions and orders of the Executive Council and Vice-Chancellor;

(*f*) be the custodian of records, common seal and such other property of the University as the Executive Council shall commit to his charge.

(*3*) The term of appointment of the Registrar shall be for a Period of five years or till he attains the age of sixty-five years, whichever is earlier, and he shall be eligible for re-appointment by the Vice-Chancellor with the approval of the Chancellor.

Heads of Department.

29. (*1*) There shall be a Head of each department in the University.

(*2*) The powers, functions, appointments and conditions of service of the heads of the departments shall be as prescribed by the Regulations.

Other Officers and Employees.

30. (*1*) Subject to the Regulations made for the purpose, every officer or employee of the University shall be appointed in accordance with the written contract which shall be lodged with the University, and a copy thereof shall be furnished to the officer or employee concerned.

(*2*) Any dispute arising out of a contract between the University and any of its officers or employees shall, at the request of the officer or the employee concerned or at the instance of the University, be referred to a Tribunal for arbitration consisting of three members appointed by the Executive Council as prescribed by the Regulations.

CHAPTER VI

MISCELLANEOUS

Selection Committees.

31. (*1*) The Executive Council shall constitute various selection committees for appointment to the posts of officers and non-teaching staff, including last grade service and contingent staff.

(*2*) The procedure for appointment of members of selection committees and the procedure to be adopted by the selection committees shall be such as may be prescribed by the Regulations.

Grants by the Central Government.

32. For the purpose of enabling the Universities to discharge their functions efficiently under this Act, the Central Government shall, after due appropriation made by Parliament by law in this behalf, provide to every University in each financial year such sums of money and in such manner as it may think fit.

Sponsored Schemes.

33. Whenever the University receives funds from the Central Government or the State Government or the University Grants Commission or any other agencies for sponsoring a scheme to be executed by the University, notwithstanding anything contained in this Act or the regulations,—

(*a*) the funds received shall be utilized only for the purpose of the scheme; and

(*b*) the University may appoint such number of staff as are required to execute the scheme in accordance with the terms and conditions stipulated by the sponsoring organisation.

Maintenance of separate bank account.

34. (*1*) Every University shall maintain a separate bank account to which shall be credited:

(*a*) all money provided by the Central Government and State Government;

(*b*) all fees and other charges received by the University;

(*c*) all money received by the University by way of grants, gifts, donations, benefactions, bequests or transfers; and

(*d*) all money received by the University in any other manner or from any other source.

(*2*) All money credited to the fund of any University shall be deposited in such Banks or invested in such manner as the University may, with the approval of the Central Government, decide.

(*3*) The Fund of any University shall be applied towards meeting the expenses of the University including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

Maintenance of accounts.

35. (*1*) Every University shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance-sheet, in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of every University shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the University to the Comptroller and Auditor-General of India.

(*3*) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of any University shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the University.

(*4*) The accounts of every University, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Statutes and Regulations.

36. (*1*) The first Statutes of each University shall be framed by the Central Government with the prior approval of the Visitor and copy of the same shall be placed before each House of Parliament as soon as possible, which shall approve them with or without modifications.

(*2*) Subsequent Statutes or modification of the Statutes shall be made by the Governing Council, and the Statutes shall have effect from such date as the Governing Council shall direct.

(*3*) Every new Statute or addition to the Statutes or any amendment or repeal of Statutes shall require the previous approval of the Visitor who may grant assent or withhold assent or remit it to the Governing Council for consideration.

(*4*) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

(*5*) The first Regulations of the University shall be made by the Vice-Chancellor with the approval of the Chancellor and shall be placed before the Executive Council at its first meeting, which may adopt them with or without modifications.

(*6*) Subsequent Regulations or modification in the Regulations shall be made by the Executive Council, and the Regulations shall have effect from such date as the Executive Council shall direct.

(*7*) Every new Regulation or addition to the Regulations or any amendment or repeal of Regulations shall require the previous approval of the Chancellor, who may grant assent or withhold assent or remit it to the Executive Council for consideration.

(*8*) A new Regulation or a Regulation amending or repealing an existing Regulation shall have no validity unless it has been assented to by the Chancellor.

Honorary Degrees.

37. If not less than two-thirds of the members of the Academic Council recommend that an honorary degree or academic distinction be conferred on any person on the ground that he is, in their opinion, by reason of eminent attainment and position, fit and proper to receive such degree or academic distinction, the Governing Council may, by a resolution, decide that the same be conferred on the person recommended.

Withdrawal of Degree or Diploma.

38. (*1*) The Governing Council may, on the recommendation of the Executive Council, withdraw any distinction, degree, diploma or privilege conferred on, or granted to, any person, by a resolution passed by the majority of total membership of the Governing Council and by a majority of not less than two-third of the members of the Governing Council present and voting, at the meeting, if such person has been convicted by a court of law for an offence, which in the opinion of the Governing Council, involves moral turpitude or if he has been guilty of gross misconduct.

(*2*) No action under sub-section (*1*) shall be taken against any person unless he has been given an opportunity to show cause against the action proposed to be taken.

(*3*) A copy of the resolution passed by the Governing Council shall be immediately sent to the person concerned.

(4) Any person aggrieved by the decision of the Governing Council may appeal to the Chancellor within thirty days from the date of receipt of such resolution.

(5) The decision of the Chancellor in such appeal shall be final.

Discipline.

39. (1) The final authority responsible for maintenance of discipline among the students of the University shall be the Vice-Chancellor. His directions in that behalf shall be carried out by the heads of departments, hostels, and institutions.

(*2*) Notwithstanding anything contained in sub-section (*1*) the punishment of debarring a student from an examination, or restication from the University, or a hostel or an institution shall, on the report of the Vice-Chancellor, be considered and imposed by the Executive Council:

Provided that no such punishment shall be imposed without giving the students concerned a reasonable opportunity to show cause against the action proposed to be taken against him.

Deemed Validity of Appointments.

40. Notwithstanding anything contained in any other law or instrument having the force of law for the time being in force, the appointments made to any post in the University in accordance with the Statutes and Regulations shall be deemed to be valid and in accordance with law.

Vacancy, etc. not to invalidate any act or proceeding.

41. No act or proceeding of the Governing Council, the Executive Council or any other authority or officer or body of the University shall be invalidated or questioned on the ground merely by reason of:

(*a*) the existence of any vacancy or defect in the constitution thereof;

(*b*) any defect in the nomination or appointment of a person acting as a member thereof;

(*c*) any irregularity in its procedure, not affecting the merits of the case.

Indemnity against general proceedings.

42. No suit, prosecution or other legal proceedings shall lie against the University or any authority or officer or employee of the University for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act, or the Statutes or Regulations or rules made thereunder.

Overriding effects.

43. The provisions of this Act and the Rules, Statutes, and Regulations made there under shall have effect notwithstanding anything inconsistent contained therewith in any other law or instrument having the force of law for the time being in force.

Power to remove Difficulties.

44. If any difficulty arises as to the first constitution or reconstitution of any authority of the University after the commencement of this Act or otherwise in giving effect to the provisions of this Act, the Central Government may, by order, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of five years from the date of the commencement of this Act.

Power to make rules.

45. (*1*) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Continuation of authorities.

46. Notwithstanding anything contained in this Act:—

(*a*) the Authorities of a University functioning as such immediately before the commencement of this Act shall continue to so function unless in contravention of any provisions of this Act;

(*b*) until the first Statutes and the Regulations are made under this Act, the rules and regulations as in force immediately before the commencement of this Act shall continue to apply to that University in so far as they are not inconsistent with the provisions of this Act.

Repeals.

47. The following Acts are hereby repealed:—

(*1*) The National Law School of India Act, 1986 (Karnataka Act No. 22 of 1986);

(*2*) The Rashtriya Vidhi Sansthan Vishwavidyalaya Adhiniyam, 1997 (Madhya Pradesh Act No. 41 of 1997);

(*3*) The National Academy of Legal Studies and Research University Act, 1998 (Andhra Pradesh Act No. 34 of 1998);

(*4*) The West Bengal National University of Juridical Sciences Act, 1999 (West Bengal Act No. 9 of 1999);

(*5*) The National Law University, Jodhpur Act, 1999 (Rajasthan Act No. 22 of 1999);

(*6*) The Hidayatullah National University of Law Chhattisgarh Act, 2003 (Chhattisgarh Act No. 10 of 2003);

(*7*) The Gujarat National Law University Act, 2003 (Gujarat Act No. 9 of 2003);

(*8*) The Doctor Ram Manohar Lohiya Rashtriya Vidhi Sansthan Uttar Pradesh Adhiniyam, 2005 (Uttar Pradesh Act No. 28 of 2005);

(*9*) The Rajiv Gandhi National University of Law Punjab Act, 2006 (Punjab Act No. 12 of 2006);

(*10*) The Chanakya National Law University Act, 2006 (Bihar Act No. 24 of 2006);

(*11*) The National University of Advanced Legal Studies Act, 2005 (Kerala Act No. 27 of 2005);

(*12*) The National Law University Act, 2007 (Delhi Act No. 1 of 2008);

(*13*) The Damodaram Sanjivayya National Law University Act, 2008 (Andhra Pradesh Act No. 32 of 2008);

(*14*) The National Law University Act, 2008 (Orissa Act No. 4 of 2008);

(*15*) The National Law University and Judicial Academy, Assam Act, 2009 (Assam Act No. 25 of 2009);

(*16*) The National University of Study and Research in Law Act, 2010 (Jharkhand Act No. 4 of 2010);

(*17*) The National Law University of Uttarakhand Act, 2011 (Uttarakhand Act No. 11 of 2011);

(*18*) The National Law University Haryana Act, 2012;

(*19*) The Tamil Nadu National Law School Act, 2012 (Tamil Nadu Act No. 9 of 2012);

(*20*) The Maharashtra National Law University Act, 2014 (Maharashtra Act No. 6 of 2014);

THE FIRST SCHEDULE

[*See* sections 2, 3(6), 3(14) and 4]

LIST OF UNIVERSITIES INCORPORATED INTO THE ACT

Sl. No.	Existing State University	Corresponding Central University
1.	The National Law School of India University Bangalore	The National Law University of India at Bengaluru
2.	The NALSAR University of Law, Hyderabad	The National Law University of India at Hyderabad
3.	The National Law Institute University, Bhopal	The National Law University of India at Bhopal
4.	The West Bengal National University of Juridical Sciences, Kolkata	The National Law University of India at Kolkata
5.	The National Law University, Jodhpur	The National Law University of India at Jodhpur
6.	The Hidayatullah National Law University, Raipur	The Hidayatullah National Law University of India at Raipur
7.	The Gujarat National Law University, Gandhinagar	The National Law University of India at Gandhinagar
8.	The Doctor Ram Manohar Lohiya National Law University, Lucknow	The Doctor Ram Manohar Lohiya National Law University of India at Lucknow
9.	The Rajiv Gandhi National University of Law, Patiala	The Rajiv Gandhi National Law University of India at Patiala
10.	The Chanakya National Law University, Patna	The Chanakya National Law University of India at Patna
11.	The National University of Advanced Legal Studies, Kochi	The National Law University of India at Kochi
12.	The National Law University, Delhi	The National Law University of India at Delhi
13.	The Damodaram Sanjivayya National Law University, Visakhapatnam	The Damodaram Sanjivayya National Law University of India at Visakhapatnam
14.	The National Law University, Odisha, Cuttack	The National Law University of India at Cuttack
15.	The National Law University and Judicial Academy, Assam	The National Law University of India at Guwahati
16.	The National University of Study and Research in Law, Ranchi	The National Law University of India at Ranchi
17.	The National Law University of Uttarakhand	The National Law Univrsity of India at Nainital
18.	The National Law University, Haryana	The National Law University of India at Sonepat
19.	The Tamil Nadu National Law School, Tiruchirapalli	The National Law University of India at Tiruchirapalli
20.	The National Law University, Mumbai	The National Law University of India at Mumbai
21.	The Himachal Pradesh National Law University, Shimla	The National Law University of India at Shimla

THE SECOND SCHEDULE

[*See* section 11(1)]

LIST OF CHANCELLORS OF INCORPORATED UNIVERSITIES

Sl. No.	Name of the University	Chancellor of the University
1.	The National Law University of India at Bengaluru	The Chief Justice of the High Court of Karnataka
2.	The National Law University of India at Hyderabad	The Chief Justice of the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh
3.	The National Law University of India at Bhopal	The Chief Justice of the High Court of Madhya Pradesh
4.	The National Law University of India at Kolkata	The Chief Justice of the High Court at Calcutta
5.	The National Law University of India at Jodhpur	The Chief Justice of the High Court of Rajasthan
6.	The Hidayatullah National Law University of India at Raipur	The Chief Justice of the High Court of Chhattisgarh
7.	The National Law University of India at Gandhinagar	The Chief Justice of the High Court of Gujarat
8.	The Doctor Ram Manohar Lohiya National Law University of India at Lucknow	The Chief Justice of the High Court of Judicature at Allahabad
9.	The Rajiv Gandhi National Law University of India at Patiala	The Chief Justice of the Punjab and Haryana High Court
10.	The Chanakya National Law University of India at Patna	The Chief Justice of the High Court at Patna
11.	The National Law University of India at Kochi	The Chief Justice of the High Court of Kerala
12.	The National Law University of India at Delhi	The Chief Justice of the Delhi High Court
13.	The Damodaram Sanjivayya National Law University of India at Visakhapatnam	The Chief Justice of the High Court of Judicature for the State of Telangana and the State of Andhra Pradesh
14.	The National Law University of India at Cuttack	The Chief Justice of the Orissa High Court
15.	The National Law University of India at Guwahati	The Chief Justice of the High Court of Assam
16.	The National Law University of India at Ranchi	The Chief Justice of the Jharkhand High Court
17.	The National Law University of India at Nainital	The Chief Justice of the High Court of Uttarakhand
18.	The National Law University of India at Sonepat	The Chief Justice of the Punjab and Haryana High Court
19.	The National Law University of India at Tiruchirapalli	The Chief Justice of the High Court of Tamil Nadu
20.	The National Law University of India at Mumbai	The Chief Justice of the High Court of Bombay
21.	The Himachal Pradesh National Law University, Shimla	The Chief Justice of the High Court of Shimla

STATEMENT OF OBJECTS AND REASONS

Legal education in India was imparted like any other graduate degree, and due to its falling standards some decades ago, the Bar Council of India had brought out a social experiment with the formation of the very first National Law School being set up as society under the name of the National Law School of India, Bangalore by the National Law School of India Act, 1986 (Karnataka Act No. 22 of 1986), which has now become the National Law School of India University, Bangalore.

Thereafter, the Committee appointed by the The Chief Justices' Conference on Legal Education and Training, 1993 and the All India Law Ministers' Conference, 1995 had resolved to set up in each state of India a Law School modelled on the lines of the National Law School of India University, Bangalore for improving the overall quality of professional legal education in India. Hence, today, twenty States have enacted legislations for the establishment of National Law Schools.

There are four main reasons these National Law Schools have been a success, namely:—

(*a*) Autonomous status: The National Law Schools are all 'Universities' themselves and enjoy the autonomy to improve the quality and curriculum of legal education as and when required, subject to the University Grants Commission regulations. This provides an effective way of expeditiously changing and moulding legal education to the needs of the society, changing laws and global trends without interference.

(*b*) Five-year integrated law programmes: Law, as a subject, was earlier being studied in isolation from various other allied disciplines. With the introduction of the concept of five year integrated degrees by these National Law Schools, there stood an opportunity of amalgamation of the law degrees with another courses of the students' choice, mainly a Bachelor of Arts degree. This allowed law to be studied in consonance with the concepts of political science, economics, sociology, focused and tailored specifically to meet the requirements of understanding the law better, and use them as social tools, for social engineering by studying the complementary social sciences.

(*c*) Intensive curriculum: With the intensive curriculum designed to meet global standards and involvement of practical teaching with the introduction of moot courts, internships, trial advocacy and the like, the National Law Schools have succeeded in instilling in their pupils, a high degree of professional excellence, along with the academic excellence they achieve. This helps to understand the practical difficulties and implications of the law better than the traditional law schools which use a different rigid class study method of teaching rather than the global problem-based and case-study method that the National Law Schools have adopted in line with the top global institutions.

(*d*) Involvement of legal luminaries: Supervision of these National Law Schools have been carried on by various legal luminaries, who are often the elite Constitutional figures, such as the The Chief Justice of India and the which The Chief Justices of various High Courts of the country who are the 'Visitors' and 'Chancellors'.

However, there are reasons why the National Law Schools have not traversed the tremendous growth trajectory they should have for mainly one reason—none of the National Law Schools really defines what exactly National Law Schools are. The University Grants Commission recognizes them as 'State Universities', and each National Law School is affiliated to the Bar Council of India. The States desirous of having a National Law School usually passes a legislation in the State Assembly establishing one. The terms of the legislation govern these National Law Schools and different legislations of different States lack coherence

with varying types of authorities, officers and the like for example in some States the Chancellor of the National Law University is the Chief Justice of the High Court of the State, in some it is the Chief Justice of India and in some it is the Chief Minister of the State concerned. These law schools are required to practice and maintain excellent legal standards and need not get the status as their counterparts in other States. The conferment of the 'National' status by a State has created confusion and has left many meritorious students not opting for the newer National Law Schools.

In contrast to every other National Institution in the country in all fields, like the Indian Institutes of Technology, the National Institutes of Technology, the Indian Institutes of Science Education and Research, the Indian Institutes of Management, the National Institute of Design, the All India Institute of Medical Sciences, the Schools of Planning and Architecture, the National Institutes of Fashion Technology all of which are Central Universities with a standard coherent definition and presence, most being declared as 'Institutes of National Importance', the National Law Schools lack every aspect of the statutory support that other National Institutions enjoy.

Based on the above mentioned differences and difficulties it is desirable to enact a law to:—

(*a*) declare all the twenty State Universities in First Schedule as Institutes of national importance;

(*b*) bring the statutory provisions of National Law Schools at par with other eminent National level Institutions of the country;

(*c*) retain the individuality of the State Universities;

(*d*) make provisions for co-ordination and regulation of the affairs of the State Universities; and

(*e*) firmly maintain the national character of the State Universities while significantly being under State control to uphold the federal nature of the country whilst not affecting the position of the Bar Council of India.

Hence this Bill.

NEW DELHI;
July 22, 2016.

SUGATA BOSE

FINANCIAL MEMORANDUM

Clause 32 of the Bill provides that Central Government shall, after due appropriation made by Parliament by law in this behalf, provide to every University in each financial year such sums of money and in such manner as it may think fit. The requirement of funds for these Universities is determined every year on the basis of their requirement at the beginning of the year. Clause 33 provides *inter alia* for grants of funds to the universities for sponsoring schemes by the Central Government. The Bill, therefore, if enacted would involve recurring and non-recurring expenditure from the Consolidated Fund of India. However, at this stage it is not possible to estimate the exact amount of recurring and non-recurring expenditure likely to be incurred from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-Clause (1) of Clause 36 of the Bill empowers the Central Government to frame, with the prior approval of the Visitor (The Chief Justice of India), the first Statutes of each University. A copy of such Statutes shall be laid before each House of Parliament. The Governing Council of each Institute has been empowered to make new or additional Statutes or amend the said Statutes made by the Central Government. The matters in respect of which the Statutes may be made relate *inter alia* to the formation of departments of teaching; the fees to be charged for courses of study and for admission to examinations for degrees and diplomas of the University; the institution of fellowships, scholarships, exhibitions, medals and prizes; the term of office, the method of appointment and the conditions of service of officers, teachers and other staff of the University; the constitution of pension, insurance and provident funds for the benefit of officers, teachers and other staff of the University; the constitution, powers and duties of officers of the University other than those provided for in this Bill; the constitution, powers and duties of officers of the Universities other than those provided for in this Bill; the procedure to be followed in the conduct of the business of the Authorities of the University, or any other Committee.

Sub-clause (4) of clause 36 empowers the Executive Council of each State University to make Regulations consistent with the provisions of the enactment and the Statutes. The matters in respect of which such Regulations may be made relate *inter alia* to the admission of students to the University; the courses of study to be laid down for degrees and diplomas of the University; the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the University; the conditions and mode of appointment and duties of examining bodies; the conduct of examinations and the maintenance of discipline among students of the University.

Clause 45 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill.

As the matters for which the Statutes, Regulations and rules will relate to matters of detail only, the delegation of legislative power is, therefore, of a normal character.

BILL NO. 238 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2016.

Insertion of new article 243EA.

2. After article 243E of the Constitution, the following article shall be inserted namely:—

Oath or affirmation by members.

"243EA. Every member of Panchayat shall, before taking his seat, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose by law made by the Legislature of the State.".

Insertion of new article 243UA.

3. After article 243U of the Constitution, the following article shall be inserted, namely: —

Oath or affirmation by members.

"243UA. Every member of Municipality shall, before taking his seat, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose by law made by the Legislature of the State.".

STATEMENT OF OBJECTS AND REASONS

Every person who is elected or appointed to a Constitutional office and every Member of Parliament or State Legislature has to subscribe an oath or affirmation before assuming charge of his office or taking his seat in the Legislature.

However, there is no provision in the Constitution which makes it compulsory for the elected members of the Panchayats and the Municipalities to make and subscribe an oath or affirmation after being elected.

The Bill, therefore, seeks to amend the Constitution with a view to make it compulsory for members of the Panchayats and the Municipalities to make and subscribe an oath or affirmation before taking their seats.

Hence this Bill.

NEW DELHI;
July 28, 2016.

JAYSHREEBEN K. PATEL

BILL NO. 232 OF 2016

A Bill to provide for the establishment of a permanent Bench of the Gauhati High Court at Silchar.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Gauhati High Court (Establishment of a Permanent Bench at Silchar) Act, 2016.

Establishment of a Permanent Bench of Gauhati High Court at Silchar.

2. There shall be established a permanent Bench of the Gauhati High Court at Silchar and such judges of the Gauhati High Court, being not less than three in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Silchar in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Cachar, Karimganj, Hailakandi and Dima Hasao.

STATEMENT OF OBJECTS AND REASONS

The Gauhati High Court for the States of Assam, Nagaland, Mizoram and Arunachal Pradesh is located at Gauhati. Out of the total submitted cases in Gauhati High Court, approx. forty to forty-five cases belong to the districts of Barak Valley, namely, Cachar, Karimganj, Hailakandi and Dima Hasao.

The distance between these districts of Barak Valley and Gauhati is a few hundred Kilometres and the road and rail often remain interrupted during heavy monsoon due to landslides, etc. The districts of the Barak Valley have a population of approximately forty lakh. People have to travel long distance causing them immense inconvenience in order to reach the High Court at Gauhati to pursue their cases. This is a great financial strain for the residents of the valley, most of whom belong to economically weaker families. For long, there has been a demand from the persons living in the region that a Bench of the High Court be set up at Silchar in Cachar district which is very important town in the State of Assam.

The Silchar town is developing as a center of trade and business. It has hundreds of tea gardens and the presence of Central Public Sector Undertakings like the Oil and Natural Gas Corporation Limited and the Hindustan Paper Corporation Limited. Therefore, establishment of a permanent Bench at Silchar in Cachar district will help mitigate the problems of the persons residing in the Barak Valley region.

Hence this Bill.

NEW DELHI;
July 25, 2016.

SUSHMITA DEV

BILL NO. 241 OF 2016

A Bill further to amend the Narcotic Drugs and Psychotropic Substances Act, 1985.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 1.

2. In section 1 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the principal Act), in sub-section (*1*), for the words "Narcotic Drugs and Psychotropic Substances", the words "Hard Drugs" shall be substituted. 61 of 1985.

Substitution of references to certain expression by certain other expression.

3. Throughout the principal Act,—

(*a*) for the words "narcotic drugs and psychotropic substances", wherever they occur, the words "hard drugs" shall be substituted; and

(*b*) for the words "narcotic drugs or psychotropic substances", wherever they occur, the words "hard drugs" shall be substituted.

Amendment of section 2.

4. In section 2 of the principal Act,—

(*a*) clauses (*viiia*) and (*viiib*) shall be renumbered as clauses (*viiic*) and (*viiid*), respectively, and, before clauses (*viiic*) and (*viiid*) as so renumbered, the following clauses shall be inserted, namely:—

'(*viiia*) "drug" means a substance the use of which affects biological or neurological state of a person;

(*viiib*) "hard drug" means a drug specified in the Schedule the use of which leads to significant physical or psychological addiction or degradation of a person but does not include a soft drug;';

(*b*) clause (*xxiii*) shall be omitted;

(*c*) after clause (*xxiiia*), the following clause shall be inserted, namely:—

'(*xxiiib*) "soft drug" means a drug the use of which does not lead to significant physical or psychological dependence or degradation of a person;'; and

(*d*) after clause (*xxviiia*), the following clause shall be inserted, namely:—

'(*xxviiib*) "voluntary declaration" means a declaration made by a person without any coercion or force about his being an addict of any narcotic drug or psychotropic substance or hard drug;'.

Amendment of section 3.

5. In section 3 of the principal Act, for the words "psychotropic substances", the words "hard drugs" shall be substituted.

Amendment of section 4.

6. In section 4 of the principal Act, in sub-section (*2*), after clause (*da*), the following clause shall be inserted, namely:—

"(*db*) introduction of mechanism for authorised and monitored sale of soft drugs with such cap on profit to be made by a retailer on the sale of soft drugs, as the Central Government may determine;".

Amendment of section 6.

7. In section 6 of the principal Act, after sub-section (*2*), the following proviso shall be inserted, namely:—

"Provided that the members of the Committee shall be certified experts in matters pertaining to hard drugs;".

Amendment of section 7A.

8. In section 7A of the principal Act,—

(*a*) in sub-section (*1*), after clause (*d*), the following clause be inserted, namely:—

"(*e*) such portion of income from authorised sale of soft drugs as may be determined, from time to time, by the Central Government;''; and

(*b*) in sub-section (*2*),—

(*i*) for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) identifying addicts and treating and rehabilitating them in dedicated rehabilitation centres;";

(*ii*) clause (*d*) shall be omitted;

(*iii*) in clause (*e*), for the words "drug abuse", the words "the dangers attached with the abuse of hard drugs" shall be substituted;

(*iv*) in clause (*f*), the words "at dedicated rehabilitation centres" shall be added at the end; and

(*v*) after clause (*f*) the following clause shall be inserted, namely:—

"(*g*) setting up of Drug Abuse Control and Prevention Centres at State and district levels to assist the Hard Drugs Consultative Committee in combating abuse of hard drugs.".

Substitution of new section for section 8.

9. For section 8 of the principal Act, the following section shall be substituted, namely:—

Prohibition of certain operations.

"8. No person shall produce, manufacture, possess, sell, purchase, transport, warehouse, use, consume, import inter-State, export inter-State, import from India, export from India or tranship any hard drug or its substituent listed under the rules or the orders made under this Act, except for medical or scientific purposes and in the manner and to extent provided by the provisions of this Act or the rules or orders made thereunder and in case where any such provision, imposes any requirement by way of licence, permit or authorisation, the terms and conditions of such licence, permit or authorisation shall also be adhered to:

Provided that nothing in this section shall apply to the export of poppy straw for decorative purposes.".

Amendment of section 9.

10. In section 9 of the principal Act,—

(*a*) in sub-section (*1*), in clause (*a*), after sub-clause (*va*), the following sub-clause shall be inserted, namely:—

"(*vb*) the manufacture, cultivation, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of hard drugs;

(*vc*) the manufacture, cultivation, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of soft drugs;"; and

(*b*) in sub-section (*2*), after clause (*a*), the following clauses shall be inserted, namely:—

"(*aa*) prescribe the forms and conditions of licences or permits for the manufacture, cultivation, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of hard drugs and designate the authorities which shall grant such licence or permit and the fee that shall be charged therefor; and

(*ab*) prescribe the forms and conditions of licences or permits for the manufacture, cultivation, possession, transport, inter-State import or export, sale, purchase, consumption or use of soft drugs and designate the authorities which shall grant such licence or permit and the fee that shall be charged therefor;".

Amendment of section 10.

11. In section 10 of the principal Act,—

(*a*) in sub-section (*1*), in clause (*a*), sub-clause (*iii*) shall be omitted;

(*b*) for the words "poppy straw", wherever they occur, the words "components for the manufacture of hard drugs" shall be substituted; and

(*c*) for the word "opium", wherever it occurs, the words "hard drugs" shall be substituted.

Amendment of section 14.

12. In section 14 of the principal Act, the words "industrial purposes only of" shall be omitted.

Amendment of section 16.

13. In section 16 of the principal Act, for the words "coca plant" and the words "coca leaves", wherever they occur, the words "controlled substances used for the manufacture or production of hard drugs" shall be substituted.

Amendment of section 20.

14. Existing section 20 of the principal Act, shall be numbered as sub-section (*1*) and after sub-section (*1*) as so numbered, the following sub-section shall be inserted, namely:—

''(*2*) Notwithstanding any other provision of law, except as otherwise provided in this section, the following acts done by the consumer shall be lawful and shall not attract any civil or criminal penalty or be the basis for seizure or forfeiture of assets:—

(*a*) possessing, cultivating, using, displaying, purchasing or transporting soft drugs;

(*b*) consumption of soft drugs except in public; and

(*c*) assisting another person in any of the acts mentioned in clauses (*a*) and (*b*).

Amendment of section 21.

15. In section 21 of the principal Act,—

(*a*) the words "or uses" shall be omitted; and

(*b*) for the words "manufactured drug" at both the places, the words "manufactured hard drug" shall be substituted.

Insertion of new section 22A.

16. After section 22 of the principal Act, the following section shall be inserted, namely:—

Restriction on cultivation of soft drugs.

"22A. (*1*) The cultivation of soft drugs shall be subject to the following—

(*a*) cultivation of soft drugs shall be at a location where the soft drugs are not accessible to public view;

(*b*) reasonable precautions shall be taken by the person cultivating the soft drugs to prevent unauthorise access to the soft drugs; and

(*c*) cultivation shall be in a land or premise that is lawfully owned by the person cultivating the soft drugs or cultivation shall be with the consent of the person who is in lawful possession of that land or premise, as the case may be.

(*2*) Whoever contravenes the provisions of sub-section (*1*) shall be punished with a fine which may extend upto ..... rupees.".

Substitution of new section for section 27.

17. For section 27 of the principal Act, the following section shall be substituted, namely:—

Punishment for consumption of hard drug.

"27. Whoever, consumes any hard drug or its substituent shall,—

(*a*) where the user is not classified as a repeated offender, be punished with fine which may extend to twenty thousand rupees or remanded to a dedicated rehabilitation or counselling centre for detoxification or be required to undergo community service at a rehabilitation centre or be subject to all the three, that is, the fine, the remand and the community service;

(*b*) if the user has made a voluntary declaration, not attract any criminal liability; and

(*c*) where the user has been classified as a repeated offender with more than two instances of use of hard drug, be remanded to a dedicated rehabilitation centre followed by compulsory community service.".

Amendment of section 44.

18. In section 44 of the principal Act, for the words "coca plant, the opium poppy or cannabis plant" at both the places, the words "controlled substances used for the manufacture or production of hard drugs" shall be substituted.

Amendment of section 46.

19. In section 46 of the principal Act, for the words "opium poppy, cannabis plant or coca plant", the words "controlled substances used for the manufacture or production of hard drugs" shall be substituted.

Amendment of section 47.

20. In section 47 of the principal Act, for the words "opium poppy, cannabis plant or coca plant", the words "controlled substances used for the manufacture or production of hard drugs" shall be substituted.

Amendment of section 60.

21. In section 60 of the principal Act, in sub-section (*1*), for the words", the narcotic drug, psychotropic substance, controlled substance, opium poppy, coca plant, cannabis plant", the words "the hard drug, controlled substances used for the manufacture or production of hard drugs'' shall be substituted.

Amendment of section 64A.

22. In section 64A of the principal Act, for the words " voluntarily seeks", the words "has made a voluntary declaration" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Narcotic Drugs and Psychotropic Substances Act, 1985, known as NDPS Act was enacted in order to meet the United Nations Coventions on Drug Policy. The objective was to prevent rampant drug use in society, as it was believed drugs and intoxicants degrade the moral character of individuals and destabilize well-ordered society. It was believed that drugs were an enemy of ordered civilization and the goal was a drug-free world.

Most drugs were made illegal. Anyone found using or possessing such substances was prescribed harsh punishments and large amounts of money was invested in the enforcement of drug restrictions and punishments handed out herewith. Plants and chemicals used in the manufacture of drugs were strictly controlled and drug enforcement agencies spent large amounts of money and time ensuring that drugs were eradicated from society.

30 years down the line, where do we stand? The fact of the matter is that the NDPS Act has not only failed in achieving its professed goals, but this "War on Drugs" has delivered results directly opposite to what it was aimed to achieve. There can be no better verdict and/or evaluation of such punitive drug laws than frank admission statement of the United Nations Conference on 12th March, 2009, admitting that "the War on Drugs has failed".

The War on Drugs has led to the creation of a dangerous drug mafia, scores of human rights violations and destroyed innumerable lives. As the common man's recreational substances were made unavailable, the newer, more potent, addictive and dangerous alternative drugs flooded the markets. Heroin replaced opium, cocaine replaced cannabis, and so on. As the drug business involves huge super profits, on one hand it creates business rivalries that on the other hand spill into gang wars and ruthless and aggressive marketing, thus pushing more and more people into the drug world. Consequently, more and more people are turning to the easily available and aggressively marketed addictive street drugs. The NCRB reported in 2014, that there are at least 25,000 individuals accused under the NDPS Act. Statistics of the Narcotics Control Bureau (NCB) indicate that number of users arrested contributes to 88% of those jailed under NDPS. Traffickers and distributors are 2%. No financers have been arrested. The drug mafia operates with impunity, increasing the scale of its operations. The UN has estimated that drug trade is the largest illegal market in the world, amounting to $300 billion. Drug money is being used to fund wars and terrorism and creating narco-terrorism.

India is currently facing a massive drug problem, with citizens between 15-40 years of age habitually abusing more and more harmful substances as the supply of less harmful, conventional intoxicants is curtailed. Punjab, Mizoram, Maharashtra, Delhi and Himachal Pradesh are the worst affected States. It is ironic that inspite of loud noises made from different parts of the country, especially Punjab and Mizoram about the increasing drug menace, resulting in immense death and misery, the NDPS Act has neither been reviewed or analysed by any Government in the past.

It has dawned upon nations worldwide that banning all intoxicating substances and imposing criminal liabilities on non-violent users is only worsening the problem. It is time to treat drug abuse and addiction as the health issue instead of treating it as a crime against society. It is high time to modernize our drug policy.

The Bill, therefore, seeks to amend the Narcotic Drugs and Psychotropic Substances Act, 1985 with a view to:—

(*a*) substitute the words "narcotic drugs and psychotropic substance" and the words "narcotic drugs or psychotropic substance" with the words 'hard drugs' throughout the parent Act;

(*b*) include 'soft drugs' within the purview of the Act;

(*c*) empower the Central Government to take measures for authorised and monitored sale of soft drugs;

(*d*) provide that members of the Narcotic Drugs and Psychotropic Substances Consultative Committee shall be certified experts in matters dealing with narcotic drugs, psychotropic substances and hard drugs;

(*e*) set up Drug Abuse Control and Prevention Centres at State and District Level to combat abuse of narcotic drugs, psychotropic substances and hard drugs;

(*f*) prohibit produce, manufacture, sell, etc. of any hard drugs or its substituent except for medical or scientific purposes;

(*g*) empower the Central Government to permit and regulate the manufacture, cultivation, possession, transport, inter-State import or export, sale, purchase, consumption or use of hard drugs and soft drugs;

(*h*) provide punishment for contravention in relation to the manufacture, cultivation, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of soft drugs;

(*i*) provide restriction on cultivation of soft drugs; and

(*j*) provide punishment for consumption of hard drug and exemption of a person making voluntary declaration from prosecution for consumption of hard drugs.

Hence this Bill.

NEW DELHI;
August 2, 2016.

DHARAM VIRA GANDHI

BILL NO. 248 OF 2016

A Bill to provide for the constitution of an authority for the purpose of protection of cow and its progeny in the country and similar authorities at the State level and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and extent.

1. (*1*) This Act may be called the Cow Protection Authority Act, 2016.

(*2*) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Authority" means the National Cow Protection Authority established under section 4;

(*b*) "cow" includes its progeny and bulls and bullocks; and

(*c*) " prescribed" means prescribed by rules made under this Act.

Prohibition of Slaughter of Cow and its progeny.

3. Notwithstanding anything contained in any other law for the time being in force or any usage or custom to the contrary, no person shall cause any injury or kill or attempt to kill, for any reason whatsoever, any cow in the country.

Establishment of National Cow Protection Authority.

4. The Central Government shall establish an Authority to be known as the National Cow Protection Authority for the protection and overall development of cow and its progeny.

Composition of National Cow Protection Authority.

5. *(1)* The Authority shall consist of :—

(i) a Chairperson, who shall be an expert in the discipline of rural economy having not less than twenty years of experience in that field, to be appointed by the Central Government; and

(ii) twenty members, having not less than ten years experience of teaching/ working in the field of rural economy and animal husbandry, to be nominated by the Central Government in consultation with State Governments.

(2) The Chairperson and other members of the Authority shall hold office for a period of five years.

(3) The Headquarters of the Authority shall be at Nagpur in the State of Maharashtra.

(4) The salary and allowances payable to, and other terms and conditions of the Chairperson and the members of the Authority shall be such as may be prescribed.

(5) The Central Government shall provide such number of officers and staff to the Authority as may be required for its efficient functioning.

(6) The salary and allowances payable to, and other terms and conditions of the officers and staff of the Authority shall be such as may be prescribed.

Establishment of State Cow Protection Authority.

6. *(1)* The Central Government shall establish an Authority for the protection and overall development of cow and its progeny in each State/Union territory to be known as the State Cow Protection Authority or the Union territory Cow Protection Authority, as the case may be.

(2) The State Authority shall consist of:—

(i) a Chairperson, who shall be an expert in the discipline of rural economy having not less than fifteen years of experience in that field, to be appointed by the National Authority in such manner as may be prescribed; and

(ii) ten members, having not less than ten years experience of teaching/ working in the field of rural economy and agriculture, to be nominated by the National Authority in such manner as may be prescribed.

(3) The Chairperson and other members of the State Authority shall hold office for a period of five years.

(4) The salary and allowances payable to, and other terms and conditions of the Chairperson and the members of the State Authority shall be such as may be prescribed.

(5) The State Authority shall function under the overall guidance and control of the National Authority.

Functions of the National Authority.

7. The Authority shall perform the following functions:—

(a) Collection and compilation of data pertaining to different varieties/hybrids of cows found in the country;

(*b*) conducting comprehensive cow census once in every three years;

(*c*) monitoring slaughter-houses in the country with a view to ensuring that no cow is slaughtered there;

(*d*) improving the breed of cows through various scientific processes including artificial insemination;

(*e*) publicise and propagate the importance of cow for the Indian economy through public awareness campaigns, newspapers and audio-visual media;

(*f*) promoting the use of modern animal husbandry techniques to increase milk productivity of indigenous cow;

(*g*) promote and propagate the use of ayurvedic medicines prepared with the use of contents of cow milk, *gobar and gomutra* among masses through print or electronic media;

(h) functioning as a resource centre in respect of ayurvedic or other medicines based on cow milk, gobar and gomutra and providing financial assistance for its promotion;

(*i*) promoting and propagating the manufacturing of medicines with the help of contents of cow milk, *gobar and gomutra*;

(*j*) increasing public awareness for greater use of cow dung as a manure as a substitute for chemical fertilizers and making available the same to the farmers at reasonable rates;

(k) providing assistance and guidance for developing local grazing grounds for cows in such manner as may be prescribed;

(*l*) monitoring the implementation of ban on export of beef from slaughter houses or from any other place in the country;

(*m*) promoting the production and export of milk and milk-based products;

(*n*) providing assistance to State Authorities for the loss of cow and other infrastructure during natural calamities;

(o) providing for the care of sick, old and infirm cows;

(p) construction of cow shelters with the provision of adequate facilities including veterinary doctors and other support staff;

(q) providing financial assistance for construction of veterinary hospitals for the treatment of cow;

(r) providing necessary assistance and guidelines for promotion of gobar gas plants;

(s) tendering advice to State Governments/Union Territory Administrations on issues arising out of implementation of the provisions of the Act; and

(*t*) such other functions as may be assigned to it by the Central Government.

Functions of the State/ Union Territory Authority.

8. The State/Union Territory Authority shall perform the following functions:—

(i) formation of special squads at district levels for enforcement of the provision of ban on slaughter of cow and its progeny;

(*ii*) monitoring slaughter-houses within their jurisdiction with a view to ensuring that no cow is slaughtered there;

(*iii*) taking the assistance of State Authorities in implementation of the provisions of this Act;

(*iv*) moving the cows seized from the slaughter houses to the nearest cow shelter constructed for the purpose; and

(*v*) such other functions as may be assigned to it by the National Authority.

Punishment.

9. (*1*) Whoever kills or attempts to kill or abets the killing of cow shall be punished with rigorous imprisonment for a term which shall not be less than two years but may extend to seven years and also with fine which may extend to ten thousand rupees.

(*2*) Whoever causes injury to a cow shall be punished with fine which may extend to five thousand rupees.

(*3*) Whoever indulges in export or import of cows for the purpose of slaughtering or indulges in trading in beef or attempts to indulge in or abets such acts shall be punished with imprisonment which may extend to five years and with fine which may extend to ten thousand rupees.

Central Government to provide adequate funds.

10. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds for the implementation of the provisions of the Act.

Act not to be in derogation of other Laws.

11. The provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force, regulating any of the matters dealt with in this Act.

Power to make rules.

12. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Our country is currently paying a heavy price for excessively interfering with the nature. Wrong practices being adopted in agriculture have given rise to a number of issues including unemployment, degradation of land and deteriorating water resources. Deforestation has resulted in land erosion and also in lowering of water level. The ecological experts are warning us against the ill-effects of reduction in Bio-diversity.

Cow and its progeny are the mainstay of agriculture and rural economy of the country. Cows are considered sacred in our tradition and there is a good reason for that. Even then we are unable to save them from extermination. Smuggling of livestock worth 150 million rupees is taking place along Indo-Bangladesh border every year. According to an estimate, approximately 80 per cent of the cow and its progeny have already been destroyed since independence. It is our misfortune that we have undermined our culture from which we have benefited so much. We still do not appreciate the kind of riches we can get if only proper arrangements are put in place to protect and enrich our cows and their progeny. The existence of 36,000 slaughter-houses in the country is a pointer to this.

Hybrid varieties yield more milk but become less productive in a short span. The indigenous cows are important not only for their milk but also for other by-products such as, cow dung, bones, horns, urine which have adequate medicinal importance. Community animal husbandry can help run bio-gas plant having 85 to 125 cubic meter capacity. It may be said that there is a strong linkage amongst rural industries, seven lakh villages and promotion of cow progeny. Mosquito-resistant coils, phenyl, insecticides, distemper, earthen tiles, shaving creams, face creams, utensil cleaning powders, tooth protection, herbal shampoos and also medicines for stomach cancer, kidney disease, respiratory disease and tuberculosis etc. are just some of the products that are based on materials derived from cows. This proves that we can still generate employment on a very large scale to promote rural economy on the basis of cow and its progeny. That is why, cow is regarded in our country as *gaumata* and hence, there is need to make special provisions for protection, promotion and development of cow and its progeny.

This Bill proposes to constitute a National Cow Protection Authority at the national level and State Cow Protection Authority at the State level for protection and development of cow and its progeny which is considered as the basis for the development of country and rural economy.

Hence, this Bill.

NEW DELHI;
August 9, 2016.

GOPAL CHINAYYA SHETTY

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the constitution of a National Authority for protection of cow and its progeny. Clause 5 provides for composition of the National Authority and salary and allowances payable to the Chairperson and other members of the Authority. Clause 6 provides for constitution of the State Authority in States and Union territories for protection and overall development of cow and its progeny in the States and Union territories by the Central Government. Clause 7 provides that Central Authority shall perform certain functions like collection and compilation of data pertaining to indigenous cows, setting up of shelter with adequate facilities for cows, providing financial assistance to the State Cow Protection Authority etc. Clause 8 provides for formation of special squads for enforcement for protection of cows. Clause 10 provides that Central Government shall release funds to Central Authority after due appropriation. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of approximately rupees one thousand crore is likely to be involved.

A non-recurring expenditure of one hundred crore rupees is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. The rules will relate to matters of detail only. Therefore, the delegation of legislative power is of a normal character.

BILL NO. 220 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2016.

Amendment of article 51A.

2. In article 51A to the Constitution, after clause (*k*), the following clause shall be inserted, namely:—

"(*l*) who is eligible to vote, to cast his vote at elections to the House of the People, Legislative Assemblies of States and institutions of local self-Government."

STATEMENT OF OBJECTS AND REASONS

India is the largest democracy in the world. It has a strong parliamentary system. Since 1951, free and fair elections to the Houses of Parliament, State Legislatures and local bodies have been held at regular intervals. Indian elections are benchmark for many other countries.

At present a candidate is declared as elected even if he secures seventeen per cent. of the votes polled. Though he has won the seat, yet he may not have the support of even half of the electors. In the true sense, he is not representing the majority of voters in the constituency from which he has been elected.

The percentage of votes polled at every election is very less which shows that people are not willing to participate in the election process. Sometimes in some of the constituencies, as low as thirty per cent. of the total votes are polled. This is not a healthy sign for democracy. Casting a vote at an election is one of the duty of community service mentioned in the Universal Declaration of Human Rights. Introducing an obligation to vote will help in strengthening the democracy and, electing a Government with more stability, legitimacy and genuine mandate. Compulsory voting system can confer a high degree of political legitimacy because it results in high voter turnout. High level of participation decreases the risk of political instability.

The compulsory voting is a system in which electors are obliged to cast their votes in elections.

Therefore, it is proposed to make it a fundamental duty of every eligible citizen to cast vote at elections to the House of the People, Legislative Assemblies and institutions of local-Self Government.

Hence this Bill.

NEW DELHI;
August 9, 2016.

GOPAL CHINAYYA SHETTY

BILL NO. 219 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2016.

Amendment of article 370.

2. In article 370 of the Constitution, after clause (*3*), the following clause shall be inserted, namely:—

"(*4*) Notwithstanding anything in clause (*3*), the provisions of this article, unless made inoperative sooner by the President, shall cease to have effect on the commencement of the Constitution (Amendment) Act, 2016.".

.

STATEMENT OF OBJECTS AND REASONS

Article 370 was incorporated in the Constitution as a temporary provision to define the political and constitutional structure of the State of Jammu and Kashmir keeping in view the special circumstances prevailing in the State at the time of its accession. The status of this State differs from the other States in many respects due to the existence of the provisions of article 370 even though sixty-six years have passed since the Constitution came into force. This has happened in spite of the fact that the said provisions are clearly termed in the Constitution itself as temporary in nature. The situation which existed at the time of incorporation of the special provisions in the Constitution does not exist today. The people of Kashmir have been participating regularly in elections to the Parliament and State Legislature, which has proved that Jammu and Kashmir is at par with other States of the country. Article 370 has, therefore, lost its relevance today. Moreover, the application of a temporary provision for almost sixty-six years without any raitonale does not make any sense. In fact, due to this article, the economy of the State has lagged behind as private sector refrain from investing in the State on account of its unique status. The arrangements under this article have led to step-motherly treatment to the people of the State. What is more serious is that this provision gives countries which are not friendly to us, an opportunity to raise the Kashmir issue in various international fora.

Therefore, in the interest of the people of the State of Jammu and Kashmir, this article should cease to operate so that the State could enjoy the fruits of progress of the country in all fields, as enjoyed by the people of other States and would also develop a feeling of brotherhood with the rest of the country.

Hence this Bill.

NEW DELHI;
August 11, 2016.

SADASHIV LOKHANDE

BILL NO. 218 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2016.

Omission of article 44.

2. Article 44 of the Constitution shall be omitted.

Insertion of new Part IVB.

3. After Part IVA of the Constitution, the following Part and articles thereunder shall be inserted, namely:—

"PART IVB

UNIFORM CIVIL LAW

Definition.

51B. In this Part, unless the context otherwise requires, "the State" has the same meaning as in Part III.

Uniform civil code for the citizens.

51C. The State shall, within one year of coming into force of this Act, secure for the citizens a uniform civil code throughout the territory of India.".

STATEMENT OF OBJECTS AND REASONS

The founding fathers of the Constitution while framing the Constitution of India have been instrumental in including uniform civil laws for all citizens throughout the country. It was therefore included as a Directive Principle of State Policy under article 44 which requires the State to secure for the citizens of India a Uniform Civil Code throughout the territory of India. However, even after sixty-six years of the framing of the Constitution, the Uniform Civil Code is yet to be enacted.

India is a country of multi-religions and every religion has its own set of personal laws to govern their respective personal matters like marriages, adoption, succession, etc. However, no uniform personal law universally acceptable to all religious communities has been codified so far.

Uniform Civil code being a Directive Principle of State Policy is not enforceable. Therefore in order to ensure uniformity, equality and social justice, it is imperative that a uniform civil code be codified at the earliest. A uniform civil code will not only help the society move forward but will take India towards its goal of becoming a developed nation.

The Bill, therefore, seeks to amend the Constitution with a view to provide for the citizens a uniform civil code throughout the territory of India.

Hence this Bill.

NEW DELHI; SADASHIV LOKHANDE

August 11, 2016.

BILL NO. 268 OF 2016

A Bill to provide for the constitution of a National Board for welfare of flood victims by making provisions of providing permanent shelters to flood victims, suggest measures to control floods and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the National Board for Welfare of Flood Victims Act, 2016.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Board" means the National Board for Welfare of Flood Victims constituted under section 3; and

(*b*) "prescribed" means prescribed by rules made under this Act.

Constitution of the National Board for providing of permanent shelters to flood victims.

3. *(1)* The Central Government shall, by notification in the Official Gazette, constitute a National Board for Welfare of Flood Victims.

(2) The headquarters of the Board shall be at New Delhi and its regional offices shall be located in the capital of each State.

(3) The Board shall consist of a Chairperson and such other members as may be prescribed.

(4) The salary and allowances payable to, and other terms and conditions of service of the Chairperson and other members of the Board shall be such as may be prescribed.

(5) The Central Government shall make available such officers and staff to the Board as it may require for its efficient functioning.

Functions of the Board.

4. The Board shall—

(*1*) identify areas in every State which are prone to flood;

(2) take steps to provide permanent shelters capable of withstanding the intensity of the flood to people in identified areas;

(3) formulate accelerated water drainage system in the residential areas located near rivers;

(4) take steps for plantation in nearby areas of river banks to mitigate the gravity of flood;

(5) install flood forecast system to alert the persons residing in flood prone areas; and

(6) make recommendations to the Central Government regarding minimizing the loss of lives and property in flood affected areas.

Expenditure incurred on implementation of the Act to be borne by the Central and the State Governments.

5. The expenditure incurred on provision of permanent shelter to flood victims under section 4 shall be borne by the Central Government and the State Governments in such ratio, as may be prescribed.

Recommendations of the Board to be implemented by the Central Government.

6. It shall be the duty of the Central Government to implement the recommendations of the Board:

Provided that where it is felt that any recommendation cannot be implemented due to any reason, the Central Government may, for reasons to be recorded in writing, inform the Board accordingly.

Annual Report.

7. (*1*) The Board shall prepare, in such form and at such time, as may be prescribed, its annual report, giving a true and full account of its activities during the previous financial year and submit a copy thereof to the Central Government.

(*2*) The Central Government shall cause the annual report to be laid before each House of Parliament.

Power to make rules.

8. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

India is an agricultural country where more than seventy per cent. of the people earn their sustenance from agriculture itself as it happens to be the principal source of their income. Besides natural resources, favourable atmosphere is also necessary for good produce. Polluted environment, unplanned and uncontrolled development leads to disruption in the weather-cycle in the country frequently culminating in the incidence of floods. In the recent past, floods have wreaked havoc in Uttar Pradesh, Madhya Pradesh, Bihar, West Bengal, Uttarakhand, Odisha, etc. The floods have devastated hundreds of villages and caused severe damage to life and property as well as to crops. Alongside, agricultural land has been subjected to great soil erosion. Several parts of the country have to bear the burnt of devastating floods every year from June to September due to which millions of people get displaced and rendered homeless. Huge loss occurs due to the loss of crops, livestock as well as erosion of soil. In view of the problems faced by the flood victims, temporary arrangements of shelter and food are made for them.

Such temporary arrangements need to be put in place in the flood affected areas every year. There is a need to exercise an effective control and find a permanent solution by making arrangements for permanent shelters to the flood affected people with essential infrastructure like pucca houses, proper drainage system, community hall for livelihood in emergent situation and sheds for animals with proper provision of fodder, etc.

Hence this Bill.

NEW DELHI;
October 19, 2016.

AJAY MISHRA 'TENI'

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of a National Board for Welfare of Flood Victims. Clause 4 provides *inter alia* that Board shall take steps to provide permanent shelters capable of withstanding the intensity of the flood to people in identified areas, formulate accelerated water drainage system in the residential areas located near rivers and install flood forecast system to alert the persons residing in flood prone areas. Clause 5 provides that the expenditure incurred on provision of permanent shelters to flood victims shall be borne by the Central Government and State Governments in prescribed ratio. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one thousand crore per annum.

A non-recurring expenditure of about rupees twenty thousand crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only, and as such, the delegation of legislative power is of a normal character.

BILL NO. 269 OF 2016

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Indian Penal Code (Amendment) Act, 2016. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

45 of 1860.

2. In section 370 of the Indian Penal Code 1860, in *Explanation.* 1, for the words "physical exploitation", the words "forced labour" shall be substituted. Amendment of section 370.

STATEMENT OF OBJECTS AND REASONS

There is a need to completely align the Indian human trafficking laws with the UN Trafficking Protocol to prevent, suppress and punish trafficking of person especially women and children which was adopted by the UN General Assembly in the year 2000. The most significant departure from the UN Trafficking Protocol in the amendment of section 370 of the Indian Penal Code done in 2013 lies in the exclusion of labour trafficking from the definition of human trafficking. The amendment does not include "forced labour" in the definition of human trafficking, a form of trafficking included in the UN Trafficking Protocol. However, the Criminal (Amendment) Ordinance, issued by the President prior to the amendment of 2013 did include forced labour. Therefore, it is proposed to amend section 370 of the Indian Penal Code to bring "forced labour" within the meaning of "exploitation" so as to make the Act more specific and in consonance with international protocol.

Hence this Bill.

NEW DELHI; JAGDAMBIKA PAL

October 20, 2016.

BILL NO. 285 OF 2016

A Bill to provide for constitution of a Central Anti-Slavery Agency to prohibit the practice of slavery, bonded labour and human trafficking and to rehabilitate the victims thereof.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, and commencement.

1. (*1*) This Act may be called the Central Anti-Slavery Agency Act, 2016.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Agency" means the Central Anti-Slavery Agency constituted under section 3; and

(*b*) "slavery" means selling or buying any person.

Constitution of the Central Anti-Slavery Agency.

3. *(1)* The Central Government shall constitute an agency to be known as the Central Anti-Slavery Agency to prohibit trafficking, bonded labour and slavery and to rehabilitate the victims thereof in co-ordination with Government and non-Governmental Organisations working in the field of prevention of trafficking, bonded labour or slavery.

(2) The Central Government shall appoint such number of officers and staff as it considers necessary for the efficient functioning of the Agency.

(3) The headquarter of the Agency shall be at New Delhi.

(4) The Agency shall have its offices in every State and Union territory.

Functions of the Agency.

4. The Agency shall—

(*a*) co-ordinate with law enforcing agencies and non-Governmental Organisations engaged in either prohibiting trafficking, bonded labour or slavery or in rehabilitation of the victims thereof;

(b) establish rehabilitation centres for rehabilitation and welfare of the victims of trafficking, bonded labour and slavery;

(*c*) regulate the efforts of various stakeholders engaged in welfare and rehabilitation of victims of trafficking, bonded labour and slavery;

(d) pay adequate compensation to the victims of trafficking, bonded labour and slavery;

(e) maintain a database of victims of trafficking, bonded labour and slavery rescued and rehabilitated;

(f) identify the persons engaged in perpetuating the offences of trafficking, bonded labour and slavery and report such cases to law enforcing agencies; and

(g) provide medical and other facilities including psychological counselling by experts to the victims of trafficking, bonded labour and slavery, if required.

Act to have over-riding effect.

5. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

6. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Article 23 of the Constitution proscribes trafficking of human and forced labour. India ranks at the top when it comes to the incidence of human trafficking in the world. The identified lacunae in the laws pertaining to the prevention of such offences include the absence of forced labour in the definition of human trafficking in section 370 of the Indian Penal Code. There is also an absence of a central coordinating agency to integrate the outcomes and co-ordinate the functioning of the various agencies of the Government and non-Governmental organisations engaged in the prevention and prosecution of the egregious act of modern day slavery. There is also a requirement of a pan-India regulatory body to actively engage in the provision of properly established centres which can help a victim to rejoin the mainstream society. Therefore, it is imperative to constitute such an agency for the purpose of removal of above-mentioned discrepancies in the system.

Hence this Bill.

NEW DELHI; JAGDAMBIKA PAL

October 19, 2016.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of the Central Anti-Slavery Agency to prohibit trafficking, bonded labour and slavery and to rehabilitate the victims of slavery in co-ordination with Government and non-Governmental Organisations working in the field of prevention of slavery. Clause 4 provides for certain welfare measures for the victims of trafficking, bonded labour and slavery. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees Five hundred crore per annum would be involved from Consolidated Fund of India.

A non-recurring expenditure of about rupees One hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relates to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 283 OF 2016

A Bill to effectively prevent the caste-based discrimination in educational institutions and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Caste-Based Discrimination in Educational Institutions) Act, 2016.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "authority", in relation to an educational institution, means the executive or the administrative head of an educational institution;

(*b*) "caste-based discrimination", means any act of an employee or authority of an educational institution that, on the basis of caste or tribe, results in unjust treatment,

individually or collectively, to any student or staff, whether teaching or non-teaching, belonging to the Scheduled Castes or the Scheduled Tribes;

(*c*) "educational institution" means any college, institute, university, deemed university, whether established by the Government or by any citizen or body of citizens and whether in receipt of aid from Government or not, recognised by Central or State Government for the award of a certificate, diploma or a degree in any course of study, education or training;

(*d*) "employee", in relation to an educational institution, means a person employed for any work including teaching or administrative or technical on regular, temporary, ad-hoc or daily wages basis, either directly or indirectly or through an agent or contractor, whether for remuneration or not, and includes a co-worker, a contract worker, a probationer, a trainee or an apprentice;

(*e*) "head of the institution" means the Vice-Chancellor in case of a university or a deemed university and in case of any other institution, the Principal or the Director, as the case may be;

(*f*) "Inquiry Committee" means Inquiry Committee constituted under section 6;

(*g*) "student" includes any person who is pursuing any academic programme including a part-time programme in an educational institution; and

(*h*) "prescribed" means prescribed by rules made under this Act.

Act of caste-based discrimination to be an offence.

3. Notwithstanding anything contained in any other law for the time being in force, whoever does any act of caste-based discrimination shall be deemed to have committed the offence of caste-based discrimination.

Aggrieved person to make complaint.

4. Any aggrieved person or any other person on his behalf may file a complaint of caste-based discrimination to the Officer designated under section 5 in such form and manner, as may be prescribed.

Educational Institutions to designate an officer for entertaining complaints.

5. (*1*) Every educational institution shall designate an officer or head of the department to entertain complaints of offences of caste-based discrimination under this Act.

Duties of designated officer.

(*2*) The designated officer shall,—

(*a*) on receipt of a complaint, acknowledge the same to the complainant and forward it to the head of the educational institution;

(*b*) take steps for safety and security of the complainant and witnesses to the committal of offence of caste-based discrimination; and

(*c*) monitor the progress of cases of caste-based discrimination filed in the courts.

Appointment of Inquiry Committee.

6. (*1*) The head of the educational institution shall, within two weeks from the date of receipt of the complaint from the designated officer, appoint an Inquiry Committee to investigate into the complaint.

Composition of Inquiry Committee.

(*2*) The Inquiry Committee shall consist of—

(*i*) the Dean of the Faculty in the case of a university or one of the head of the departments in case of a college or a person immediately below the head in hierarchy in case of all other educational institutions, as the Chairperson;

(*ii*) a member of the Senate or Academic Council in the case of a university or a person to be nominated by the head of the educational institution from amongst the senior teachers of the institution or the senior most professor or researcher in the case of all other educational institutions, as a member;

(iii) a person to be nominated from amongst the Senior Professors belonging to the Scheduled Castes by the National Commission for Scheduled Castes, as a member;

(iv) a person to be nominated by the National Commission for Scheduled Tribes, as a member; and

(v) a person to be nominated by the National Human Rights Commission, as a member.

(*3*) The terms and conditions of appointment of the members nominated under clauses (*iii*) to (*v*) of sub-section (*2*) shall be such as may be prescribed.

Role of Inquiry Committee.

7. (*1*) The Inquiry Committee shall—

(*i*) inquire into the contents of the complaint;

(*ii*) record both oral and documentary evidence;

(*iii*) give opportunity of being heard to the complainant and the charged employee for presenting and defending the case;

(*iv*) submit its findings to the head of the educational institution within a period of three weeks of its appointment.

(*2*) If the inquiry is not completed within a period of three weeks of the date of appointment of the Inquiry Committee, the Inquiry Committee shall, for the reasons to be recorded in writing, complete the inquiry within a further period of three weeks.

Provision of supply of copy of report to the complainant and the charged employees.

8. The head of the educational institution shall, within one week from the date of receipt of report from the Inquiry Committee, make available a copy of the report to the complainant and the charged employee.

Appeal.

9. (*1*) Any person aggrieved of the recommendations of the Inquiry Committee may prefer an appeal to the head of the educational institution within a period of thirty days from the date of the receipt of the copy of the report.

Disposal of appeal.

(*2*) The head of the educational institution shall, after affording an opportunity of being heard to the aggrieved party including Inquiry Committee, if required, dispose of the appeal within a period of thirty days and communicate the final decision in writing to the complainant and the charged employee.

Disciplinary action against charged officer.

10. Where the Inquiry Committee or the Appellate Authority finds that the allegation against the charged employee has been proved, it shall recommend to the authority to take action against charged employee for committing the offence of caste-based discrimination under this Act.

Punishment.

11. (*1*) Any employee who commits the offence under this Act shall be punished for the first offence, with suspension for a minimum period of six months but which may extend upto two years or with fine or both, and for subsequent offence with termination of service.

(*2*) The authority shall, in case of second time offence, forward a copy of the report of Inquiry Committee to the nearest police station for registration of the case against the charged employee.

Power to make rules.

12. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the

expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The persons belonging to the Scheduled Castes and the Scheduled Tribes constitute about one-fourth of the total population of India. Though, their socio-economic conditions have somewhat improved due to various policies adopted by the Government in the post-Independence period, they are still the most vulnerable sections of the Indian society. It is agonizing that they continue to be victims of caste-based discrimination in practically every sphere of the country's socio-economic and cultural life.

Such caste-based discrimination in various forms and to varying degrees is rampant in the educational institutions in general; and higher educational institutions, in particular. Of late, the extent and magnitude of such caste-based discrimination has increased manifold. Due to the apathetic attitude of concerned educational institutions on the one hand and colossal neglect towards such caste-based discrimination by the Government on the other hand, the victims of discrimination become so desperate that some of them commit suicide.

There is a need to effectively and expeditiously address the incidents of caste-based discrimination specifically in the educational institutions and eliminate it at the earliest.

Hence this Bill.

NEW DELHI;
October 10, 2016.

NISHIKANT DUBEY

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for nomination of three persons as members of the Inquiry Committee for investigating into complaints of caste-based discrimination. The members will be paid TA/DA for attending meetings of the Committee. At this stage, it is not possible to give the exact amount to be incurred on this account as the appointment of Inquiry Committees in educational institutions would depend upon the number of complaints of caste-based discrimination. However, the recurring expenditure, which cannot precisely be estimated at this stage, would be involved out of the Consolidated Fund of India in case of educational institution under the Central Government.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Act. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 267 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 72.

2. After clause (*1*) of article 72 of the Constitution, the following clause shall be inserted, namely:—

"(*1A*) Save as otherwise provided in clause (*1*), the power referred to in clause (*1*) shall be exercised by the President within a period of six months from the date of receipt of the petition of mercy:

Provided that if the President does not exercise the power within the aforesaid period, it shall be deemed that the petition of mercy has been declined and the orders of the Court in respect of the petitioner shall be enforced immediately.".

STATEMENT OF OBJECTS AND REASONS

India is one of the largest democracies in the world. It gained freedom in 1947 from the British rule after a prolonged struggle and sacrifice of sons of the soil. The Constitution was drafted keeping in view the welfare of the citizens. Though the utmost care was taken while drafting the Constitution to meet expectations of the citizens but there have been occasions when need arose for amending the Constitution to keep pace with the changing scenario in the country.

Article 72 of the Constitution empowers the President to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence. Though the President has been bestowed with absolute powers in this regard, no time limit has been fixed within which such power has to be exercised. As a result, the mercy petitions made before the President are kept pending for a long period without any decision. As a fall out of this, the convicts are to be kept guarded in jails and heavy expenditure is incurred upon them. In the present situation, attempts are being made both externally and internally to hurt the harmony and vibrancy of our civil society and we are continuously facing terrorist attacks. It is high time to curb anti-national activities and for that, if death penalty is awarded to a convict by any court after considering the circumstances which led them to reach such a decision based upon the gravity of the crime and such person files mercy petition before the President of India, the decision on such mercy petition should be taken within six months in order to send a strong signal among anti-national elements and to check their nefarious activities.

Hence this Bill.

NEW DELHI;
October 20, 2016

NISHIKANT DUBEY

BILL NO. 265 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows: —

1. This Act may be called the Constitution (Amendment) Act, 2016. Short title.

2. After article 370 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 370A.

"370A. Notwithstanding anything contained in articles 80 and 81, until the area of the State of Jammu and Kashmir and Gilgit-Baltistan under the occupation of Pakistan ceases to be so occupied and the people residing in that area elect their representatives, Seats in the House of the People and in the Council of States to be kept for the territory of the State of Jammu and Kashmir and Gilgit-Baltistan under the occupation of Pakistan.

(i) five seats in the House of the People and one seat in the Council of States shall remain vacant, but such seats shall not be taken into account for reckoning the total membership of the House of the People or the Council of States, as the case may be; and

(ii) the said area shall be excluded in delimiting the territorial constituencies under article 82.".

STATEMENT OF OBJECTS AND REASONS

A large part of the State of Jammu and Kashmir and Gilgit Baltistan was occupied by Pakistan after the 1948 war between two countries. Even after the passage of sixty-six years of the said war, that area, which legitimately belongs to India, still remains under the occupation of Pakistan. The solution to the Kashmir imbroglio is possible only when the area under illegal occupation of Pakistan is returned to India and the people there are able to live in a free and democratic environment.

It is a matter of extreme surprise that the composition of the Lower House, i.e. the House of the People, does not take into account this territory which is under illegal occupation of another country. The State Legislature of Jammu and Kashmir keeps twenty-four seats in the assembly vacant for the territory under illegal occupation of Pakistan until that area is reunited with the State. However, no such provision exists in the case of the House of the People and the Council of States. It would be proper that for the area of the State of Jammu and Kashmir including Gilgit Baltistan under illegal occupation of Pakistan, five seats in the House of the People and one seat in the Council of States be kept vacant till that area is reunited with the State of Jammu and Kashmir.

Hence this Bill.

NEW DELHI;
October 20, 2016.

NISHIKANT DUBEY

BILL NO. 289 OF 2016

A Bill to ensure equality to every citizen of the country by providing protection against all forms of social discrimination.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and extent.

1. (*1*) This Act may be called the Anti-Discrimination and Equality Act, 2016.

(*2*) It extends to the whole of India:

Provided that it shall apply to the State of Jammu and Kashmir only in so far as it relates to any of the matters enumerated in List I or List III of the Seventh Schedule to the Constitution and as applicable to that State.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*i*) the letters "A" and "B" shall have the same meaning as assigned to them under section 14;

(*ii*) "adverse effect" includes the withholding of a benefit given to others including minimal, symbolic or nominal adverse effects or detriments;

(*iii*) "affirmative action" means adoption of a conduct, law, policy, criterion, practice or structure which is designed to extend benefits, privileges or preferences to one or more disadvantaged groups, as proportionate means to end discrimination;

(*iv*) "aggravated discrimination" means engaging in or attempting to engage in boycott, segregation or discrminatory violence;

(*v*) "aggrieved person" means any person who alleges that he has been subjected to direct or indirect discrimination, harassment, boycott, segregation, discriminatory violence or victimization;

(*vi*) "Central Equality Commission" means the Central Equality Commission constituted under section 17;

(*vii*) "consumer" means any person who buys, hires, seeks to buy or seeks to hire any goods from a trader or avails of or seeks to avail of any services of a service provider, and includes non-commercial service-users such as patients and (primary, secondary, vocational or university) students;

(*viii*) "employee" includes, but is not limited to, a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied, whether skilled, semi-skilled or unskilled, whether working in an administrative or managerial capacity or not, whether working full-time or part-time and including a co-worker, a contract worker, probationer, trainee, apprentice or one called by any other such name;

(*ix*) "employer" includes, but is not limited to, a contractor and a sub-contractor, and any person who is responsible, whether ultimately or at an intermediate level, for the management, supervision or control of a workplace or discharging contractual obligations with respect to his employees;

(*x*) "landlord" includes, but is not limited to, any person who is a landholder, seller, lessor, proprietor, housing society, hotel, motel, innkeeper, owner, estate or letting agency, board and lodgings provider or any other person providing residential, commercial, agricultural, or industrial property, for sale, lease or rent for temporary or permanent occupation or use;

(*xi*) "member of civil society" means any citizen of India who is not a judge of the Supreme Court, High Court or the subordinate courts, a Member of Parliamnt or State Legislative Assembly, an officer of the Central Government or a State Government, a member of a political party or of any organization, union or institution formally or informally allied with a political party or holds any office of profit except by way of employment in a public University:

(*xii*) "person" includes, but is not limited to, an individual, company, business, authority, institution, organization, venture, undertaking, enterprises, institution, establishment, *panchayat,* personal law board, senior citizen's council, *jamaat,* political party, club, society, trustee, non-Governmental organization, department, office, branch or unit, whether Government or private, whether incorporated or registered or not, whether formal or informal, and whether for a profit motive or not;

(*xiii*) "private person performing a public function" includes, but is not limited to public contractors, special purpose vehicles formed in relation to public-private partnerships and businesses in receipt of any special subsidy, grant or benefit from any Government that is not ordinarily available to other businesses;

(*xiv*) "public authority" means any authority, person, board, department, body or institution that is:

(*a*) established or constituted by or under the Constitution, or by any law made by Parliament, or by any law made by the legislature of a State, or

(*b*) owned, controlled or substantially financed, directly or indirectly, by funds provided by the Central Government or a State Government, or

(*c*) registered as a political party under the Representation of People Act, 1951; 43 of 1951.

(*xv*) "religion and belief" includes, but is not limited to, recognized or unrecognized sects within a religion, the religion of an individual's parent, an individual's religion before or after a conversion or reconversion, atherism and agnosticism and any other political or philosophical belief that is compatible with the objectives of this Act;

(*xvi*) "service provider" means any person who is a provider of any service, including hospitality, entertainment, education (including primary, secondary, vocational and university education), healthcare, advertising, insurance, banking, consultancy, commercial, voluntary, charitable, professional, vocational, legal, transport, cultural, religious, industrial and financial services;

(*xvii*) "State Equality Commission " means a State Equality Commission constituted under section 25;

(*xviii*) "tenant" includes, but is not limited to any person who is a sub-tenant, lessee, paying guest, occupier or resident in relation to a property owned by another;

(*xix*) "trader" includes, but is not limited to, any person who is a seller, distributor, retailer, letter, supplier, provider, manufacturer, packer, shopkeeper, retailer or wholesaler of any goods; and

(*xx*) "workplace" includes, but is not limited to,

(*a*) any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the Central Government or a State Government or a local authority or a Government company or a corporation or a co-operative society; or

(*b*) any private sector organization or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organization, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service; or

(*c*) hospitals or nursing homes; or

(*d*) any sports institute, stadium, sports complex or competition or games venue, whether residential or not and used for training, sports or other activities relating thereto;

(*e*) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey.

CHAPTER II

PROTECTED CHARACTERISTICS, PROHIBITED ACTS AND POSITIVE DUTIES

Protected characteristic.

3. A "protected characteristic" in relation to a citizen of India means—

(*i*) caste, race, ethnicity, descent, sex, gender identity, pregnancy, sexual orientation, religion and belief, tribe, disability, linguistic identity, HIV status, nationality, marital status, food preference, skin tone, place of residence, place of birth or age; or

(*ii*) any other personal characteristic which,—

(*a*) is either outside a person's effective control, or constitues a fundamental choice, or both; and

(*b*) defines at least one group that suffers or is in danger of suffering widespread and substantial disadvantage, when compared with other groups defined by the same characteristic; or

(*iii*) a combination of any of the above.

Protected group.

4. (*1*) for the purposes of this Act, a "protected group" means—

(*i*) a group of persons defined by a protected characteristic including group of person who are, or are likely to become pregnant or group of persons living with disability or a sub-group thereof:

Provided that, a protected group shall be deemed to include persons who are (correctly or incorrectly) perceived to be members of that group and persons who are associated with the members of that group and may or may not possess any formal recognition, social cohesion or a distirct cultural identity.

Illustrations.— 1. Men constitute a protected group defined by the protected characteristic sex. So do women.

2. Muslim women are a protected group defined by a combination of two protected characteristics: sex and religion.

Disadvantaged group.

5. For the purposes of this Act, "disadvantaged group" means, with respect to—

(*i*) caste: the scheduled castes recognized under article 341 of the Constitution, or any other group that has been or continues to be a subject of the practice of untouchability;

(*ii*) race, ethinicity or descent: any racial and ethnic minorities in the relevant geographical area, including persons who originate from North-Eastern States of India, persons of Tibetan origin and persons of African origin;

(*iii*) sex: women and inter-sex persons;

(*iv*) gender identity: transgendered persons, *hijras* and gender-non-conforming persons;

(*v*) pregnancy: those who are or are likely to become pregnant;

(*vi*) sexual orientation: gays, lesbians, bisexuals, *kothis* and other sexual minorities;

(*vii*) religion and belief: religious minorities in the relevant geographical area, atheists and agnostics;

(*viii*) tribe: the Scheduled Tribes recognized in article 342 of the Constitution;

(*ix*) disability: persons living with any disability;

(*x*) linguistic identity: linguistic minorities in the relevant geographical area;

(*xi*) HIV-status: persons living with HIV/AIDS;

(*xii*) nationality; foreign nationals and naturalized citizens;

(*xiii*) marital status: unmarried persons, cohabiting couples, same-sex couples, separated persons, divorced persons, widows;

(*xiv*) food preference: persons who are not vegetarians;

(*xv*) skin tone: persons with a darker skin tone;

(*xvi*) place of birth or residence: persons born in or ordinarily resident in a rural area;

(*xvii*) age: persons over the age of sixty-five, persons under the age of eighteen;

(*xviii*) an analogous protected characteristic under section 3, any group suffering widespread and substantial social, economic, political, cultural, or educational disadvantage and notified by the Central Equality Commission as a disadvantaged group under section 23:

Provided that no notification shall be issued without a recommendation of an Inquiry Committee set up by the Central Equality Commission under sub-section (*3*) of section 23.

(*xix*) a sub-set of or a combination of any of the above.

Direct discrimination.

6. (*1*) Every conduct, rule, regulation, policy, criterion, practice or structure shall be *prima facie* directly discriminatory if:

(*i*) motivated by prejudice against or is intended to harm, injure, cause a detriment to or adversely affect a protected group; or

(*ii*) based on stereotypical assumptions about members of a protected group; or

(*iii*) a reference to a protected characteristic, whether on its own or in combination with any other criteria; or

(*iv*) applied to a member or members of a protected group but not to a member or members of any other group defined by the same protected characteristic.

(*v*) applied generally,

(*a*) it adversely affects or would adversely affect all members of a protected group to whom it is or would be applied, and

(*b*) does not or would not adversly affect all members of any other group defined by the same protected characteristic to whom it is or could be applied.

Illustrations.—

1. An employer refuses to interview a candidate because he belongs to a scheduled caste. This is direct discrimination in relation to caste.

2. An employer fires a female employee after her marriage because he makes a stereotypical assumption that married women do not make efficient workers. This is prima facie direct discrimination in relation to sex.

3. A hospital hires only female nurses based on the stereotypical assumption that women are more caring than men. This is prima facie direct discrimination in relation to sex.

4. A housing society advertisement offers apartments on rent to married couples. This is prima facie direct discrimination in relation to marital status.

5. A university has a policy of conducting random security checks of student hostel rooms. In practice, this policy is only invoked to check rooms of Kashmiri students. This is prima facie direct discrimination in relation to ethnicity, descent and linguistic identity.

(*2*) Subject to the other provisions of this section, *prima facie* direct discrimination constitutes direct discrimination unless the respondent shows that the conduct, rule, regulation, policy, criterion, practice or structure,—

(*i*) is a proportionate means of achieving a legitimate objective; and

(*ii*) was adopted in a good faith.

Illustrations.— 1. A drama company is putting up a production of the Ramayana. It advertises for male actors to apply for the role of Rama and female actors for that of Sita. This is a proportionate means of achieving a legitimate objective.

2. A restaurant owner refuses to hire a Muslim waiter because its patrons prefer to be served by non-Muslims. Catering to the prejudices of others is not a legitimate objective.

Provided that financial gain or the preservation of a culture, ethos or tradition, except when and to the extent that such preservation is in pursuit of the rights guaranteed under articles 29 and 30 of the Constitution, shall not be regarded as a direct discrimination of the purposes of this section:

Provided futher that no conduct, rule, regulation, policy, criterion, practice or structure shall be direct discrimination if its objective can be substantially achieved through non-discriminatory or less discriminatory means:

Provided also that a finding of direct discrimination under clause (*ii*) of sub-section (*1*) shall not be disputed merely by showing that the relevant stereotypical assumption is supported by statistics.

Indirect discrimination.

7. (*1*) Every conduct, rule, regulation, policy, criterion, practice or structure is *prima facie* indirectly discriminatory if it does not amount to direct discrimination; and

(*i*) either puts or is likely to put members of a protected group at a special detriment when compared with members of any other group defined by the same protected characteristic; or

(*ii*) has or is likely to have a disproportionate adverse effect on members of a protected group when compared with members of any other group defined by the same protected characteristic.

Illustrations.— 1. An employer pays part-time workers at a lower hourly rate than full-time workers, for doing the same work. A majority of part-time workers in his establishment are women but a majority of full-time workers are men. This is prima facie indirect discrimination in relation to sex.

2. A housing society only lets apartments to persons with a Masters degree. In the relevant geographical area, persons belonging to the Scheduled Castes are substantially less likely to have Masters degrees compared with others. This is prima facie indirect discrimination in relation to caste.

3. A milk delivery company has a policy of not supplying milk to butchers. Most butchers in that locality are Muslims. This is prima facie indirect discrimination in relation to religion.

(*2*) For the purposes of sub-section (*1*), *prima facie* indirect discrimination shall constitute indirect discrimination unless the respondent shows that the conduct, rule, regulation, policy, criterion, practice or structure—

(*i*) is a proportionate means of achieving a legitimate objective, and

(*ii*) was adopted in good faith:

Provided that no conduct, rule, regulation, policy, criterion, practice or structure shall be indirect discrimination if its objective is likely to be substantially achieved through non-discriminatory or less discriminatory means.

Harassment.

8. (*1*) Every communication or conduct related to a protected characteristic directed at a person belonging to a protected group that has the purpose of creating an intimidating, hostile or bullying environment for such person shall be deemed to be harassment in respect of that person.

Illustrations.— 1. A schoolboy, who refuses to play sports, is called a 'sissy' by his teacher. This is harassment in relation to gender identity.

2. A co-worker sprinkles 'holy water' on a machine previously operated by a colleague belonging to a scheduled caste to 'purify' it. This is harassment in relation to caste.

(*2*) For the purposes of this section, every communication or conduct creating an intimidating, hostile or bullying environment for a person belonging to a protected group shall be determined from the point of view of a reasonable person belonging to that protected group and in the light of relevant historical or social context.

Boycott.

9. Every call for or practice of any social, economic, political, cultural or other form of avoidance, ostracism, excommunication, expulsion or exclusion that is targeted against or likely to adversely affect members of a protected group shall be deemed to be boycott for the puposes of this Act.

Illustration.— 1. A khap panchayat orders villagers to stop all interaction with the families of a couple who belong to different religions. This is boycott in relation to religion-cum-marital status.

Segregation.

10. (*1*) Every use of force, coercion or manipulation, or the threat thereof with the objective of preventing a person from interacting with, relating to, marrying, eating with, living with, socializing with, becoming friends with, visiting, working with, or contracting with another because of a protected characteristic shall be deemed to be segregation for the purposes of this Act.

Illustrations.— 1. An employer operates separate canteens for upper-caste Hindus and all others.

2. A Hindu boy is threatened with violence unless he breaks off his romantic relationship with a Muslim girl.

3. An adult consenting couple, walking hand in hand in a park, is set upon by a mob which, on discovering that they are not married, forces the woman to tie a rakhi on the man's wrist.

4. A young woman has her movements restricted and monitored by her family because she is seen at a cinema hall in the company of a young man belonging to the same gotra as herself.

45 of 1860.

(*2*) Whoever files a false complaint under section 366 of the Indian Penal Code, 1860 or any other law in force in order to frustrate or with the likely effect of frustrating a person's free choice with respect to any friendship, relationship, cohabitation or marriage shall be deemed to have committed the offence of segregation under this Act.

(*3*) For the purposes of sub-section (*2*), a reliable statement made by the person falsely alleged to have been kidnapped or otherwise affected shall be sufficient, although not necessary, to prove that the complaint was false, even if he later retracts from that statement.

Discriminatory violence.

11. (*1*) Any abetment, support, encouragement, facilitation or use of violence or coercion that is targeted against members of a protected group shall be deemed to be a discriminatory violence for the purpose of this Act.

Illustration.— *1.* A woman belonging to a scheduled caste is stripped and paraded around a village. This is an act of discriminatory violence in relation to caste and sex.

(*2*) For the purpose of this Act, a public servant who has the duty or ability to protect the public from violence or coercion fails to make or causes or attempts to cause others to fail to make sufficient efforts to protect members of a protected group from such violence or coercion shall be deemed to have committed discriminatory violence.

Victimisation.

12. (*1*) Any subjection of a person or his association to a detriment or adverse effect who has done or intends to do, or is believed to have done, or is believed to be likely to do, or is believed to have the intention of doing any of the following shall be deemed to be victimisation for the purposes of this Act:

(*i*) bringing a complaint under this Act, or

(*ii*) seeking a protection order under this Act, or

(*iii*) giving evidence in a proceeding or inquiry under this Act, or

(*iv*) making an allegation concerning the contravention of this Act, or

(*v*) seeking information in relation to this Act, or

(*vi*) doing any act in connection with the purposes or provisions of this Act, or

(*vii*) providing financial, logistical or other support to anyone who has done or intends to do act of victimisation.

Diversification.

13. (*1*) Adoption of a conduct, law, policy, criterion, practice or structure that is designed to increase or encourage the participation of a disadvantaged group that, in relation to its population in the relevant geographical area, is substantially excluded from its activities by appropriate Government, local authorities and private persons performing public functions, through reasonable means shall be deemed to be diversification for the purpose of this Act.

(*2*) For the purpose of sub-section (*1*), whether a disadvantaged group suffers substantial exclusion shall be determined by calculating the Diversity Index in accordance with the formula developed by the Central Equality Commission under section 23.

Explanation.— For the purpose of this section "reasonable means of diversification" include, but are not limited to, adoption of or provision for scholarships, targeted advertising, special pre-recruitment or post-recruitment training, tie-breaker rules and reasonable incentives for third parties to benefit the substantially excluded disadvantaged group or any other measure approved by the Central Equality Commission.

Anti-Discrimination duty.

14. (*1*) In this Act, A and B shall be construed broadly, and in accordance with the table below:

A	B
Employer	Employees
Landlord	Purchaser, Tenant
Trader	Consumer
Service provider	Consumer
Public Authority	Any affected person
Private Persons performing public functions	Any persons affected by their public function

(*2*) A, or a representative of A, shall not directly or indirectly discriminate or use discriminatory violence against, or harass, boycott, segregate or victimise:

(*i*) B, or

(*ii*) any person who seeks to, or would seeks to, become B, or

(*iii*) any person who was B.

(*3*) In accordance with the guidelines issued by the Central Equality Commission under sub-section (*2*) of section 23, A, or a representative of A, shall take all reasonable steps to ensure that B is protected from discrimination, harassment, boycott, segregation, discriminatory violence and victimisation by others over whom A has any direct or indirect supervisory, managerial, contractual or other power or control.

(*4*) The duty under sub-section (*2*) shall include the duty to institute a readily accessible, independent and well-publicized formal complaints mechanism and the duty to duly investigate and act on any complaints, in accordance with the guidelines issued by the Central Equality Commission under sub-section (*2*) of section 23.

(*5*) Notwithstanding anything contained under this Act, the following shall not constitute a breach of the anti-discrimination duty:

(*i*) diversification or any other form of affirmative action, including collecting information for, calculating or publishing the diversity index, whether mandatorily under sections 15 and 16;

(*ii*) providing diversity training under section 15;

(*iii*) giving due regard to the need to eliminate discrimination and to promote equality and diversity as defined under section 16; and

(i*v*) doing, making, communicating, adopting or instituting in good faith anything mentioned in the Schedule to this Act:

Provided that A's group membership, including his membership of the same protected group as B, shall be irrelevant to determine whether A has breached his duty under this Act.

(*6*) Nothing in this Act shall affects the continued operation of any provision of quotas, reservations or other affirmative action required under any other law.

Diversification duty.

15. (*1*) Every public authority, landlord or housing society managing over fifty residential units, secondary or tertiary educational institutions, private person performing public functions and employers with more than one hundred employees shall calculate, publish and report their Diversity Index to State Equality Commission, in a form prescribed by the Central Equality Commission.

(*2*) The first Diversity Index under sub-section (*1*) shall be prepared within three years of the enactment of this Act and shall be prepared annually thereafter.

(*3*) Every public authority shall undertake due measures to progressively realize diversification in all aspects of their work and at all levels of their workforce.

(*4*) Every private person performing public function shall undertake measures to progressively realise diversification in the aspects of their work and work force related to the discharge of their public function.

(*5*) While performing diversification duty, sexual, caste, tribal and religious diversification, shall be given priority in policing and public procurement under this Act:

Provided that the diversification measures in any given year may focus on any one or more substantially excluded disadvantaged group.

(*6*) The diversification duty shall be applicable to citizens of India who ordinarily reside in the relevant geographical area.

(*7*) All public authorities shall, in consultation with the Central or a State Equality Commission, as the case may be, conduct regular training sessions for their personnel to sensitize them the importance of equality, anti-discrimination and diversity and to educate them for carrying out the purposes of this Act.

(*8*) The training courses for members of the police force, armed forces deployed in civilian areas, Magistrates in charge of issuing Protection Orders under this Act, and officers in charge of implementing the Special Marriage Act, 1954 shall be conducted within two years of the enactment of this Act, and be conducted on an annual basis thereafter.

43 of 1954.

(*9*) The training courses for other public servants who deal directly with members of the public shall within three years of the enactment of this Act.

(*10*) The Central or a State Equality Commission may order any public authority to require its personnel to undergo diversity training courses.

Due Regard duty.

16. All public authorities while making a rule, regulation, policy or strategic decision shall give due regard to Climinate all forms of discrimination to promote equality and diversity.

CHAPTER III

COMMISSIONS

Central Equality Commission.

17. (*1*) The Central Government shall, by notification in the Official Gazette, within sixty days of the date of commencement of this Act, constitute a Commission to be known as the Central Equality Commission to exercise the power conferred on, and to perform the functions and duties assigned to it under this Act.

(2) The Central Equality Commission shall consist of—

(a) a Chief Equality Commissioner, who has been a judge of the Supreme Court or the Chief Justice of a High Court, or a senior advocate for at least seven years in Supreme Court;

(b) two Equality Commissioners, who shall be a person of eminence, integrity and expertise in the area of anti-discrimination and equality in realizing the to be appointed by Central Government in such manner as may be prescribed, including—

(i) one member belonging to the academic community, having a doctoral degree in the social sciences and an academic position at a university:

Provided that the academic member shall be granted leave without prejudice by their employing universities for the duration of their term of appointment or until the date of their retirement from their academic appointment, whichever is earlier; and

(ii) one member of the civil society who has worked for organizations committed in advancing the purpose of this Act:

Provided that at least one of the Equality Commissioners shall be a woman.

(*c*) The Chairperson of the National Commission for Scheduled Castes, member, *ex-officio;*

(*d*) the Chairperson of the National Commission for Scheduled Tribes, member; *ex-officio;*

(*e*) the Chairperson of the National Commission for Backward Classes, member, *ex-officio;*

(*f*) the Chairperson of the National Commission for Women, member, *ex-officio;*

(*g*) the Chairperson of the National Commission for Minorities, member, *ex-officio;*

(*h*) the Chairperson of the National Commission for the Protection of Child Rights, member, *ex-officio;*

(*i*) the Chief Commissioner for Persons with Disabilities, members, *ex-officio;*

(*j*) the National Commissioner for Linguistic Minorities, member, *ex-officio;* and

(*k*) the Chairperson of the National Human Rights Commission, member, *ex- officio.*

(*3*) The decision of the Chief Equality Commissioner and the two Equality Commissioners by consensus shall be deemed to be the decision of the Central Equality Commission.

Appointment of the Chief Equality Commissioner and Equality Commissioners.

18. (*1*) The Chief Equality Commissioner and Equality Commissioners shall be appointed by the President by warrant under his hand and seal.

(*2*) The Chief Equality Commissioner and the Equality Commissioners shall be appointed on the recommendation of a Selection Committee consisting of the following:

(*i*) minister in-charge of Ministry of Law and Justice Government of India;

(*ii*) Leader of Opposition in the House of the People;

(*iii*) Chief Justice of India, and

(iv) two members of civil society to be nominated by the other three members of the Committee.

(*3*) The general superintendence, direction and management of the affairs of the Central Equality Commission shall vest in the Chief Equality Commissioner, who, assisted by the Equality Commissioners, may exercise all such powers, perform all such functions and duties and do all such acts and things which may be exercised, performed or done by the Commission autonomously, without being subjected to any control, supervision or directions by any other authority, including any department of the Government of India or a State Government.

(*4*) The Chief Equality Commissioner or an Equality Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union Territory, or be an officer of the Central Government or a State Government, or hold any office of profit except by way of employment in a public university, or be a member of any political party or of any organisation, union or institution formally or informally allied with a political party.

(*5*) The Selection Committee shall, but not later than six months prior to any vacancy due to arise, issue an advertisement for inviting applications from persons, for appointment as Chief Equality Commissioner and Equality Commissioners:

Provided that the advertisement shall contain the criteria on the basis of which the Selection Committee shall select the Chief Equality Commissioner and the Equality Commissioners.

Term of office of the Central Equality Commissioner.

19. (*1*) The term of office of the Chief Equality Commissioner and the Equality Commissioners shall be five years from the date on which he enters upon his office or when he attains the age of seventy years or whichever is earlier and shall not be eligible for re-appointment:

Provided that in order to facilitate a staggered renewal of personnel, one of the first set of Equality Commissioners shall be appointed for a term of four years and the other for a term of six years.

(2) The salaries and allowances payable to and other terms and conditions of service of the Chief Equality Commissioner and the Equality Commissioners shall be such as may be prescribed and shall not be varied to their disadvantage after their appointment, and

(i) for the Chief Equality Commissioner shall be the same as that of the Chief Election Commissioner, and

(ii) for an Equality Commissioner shall be the same as that of an Election Commissioner.

(*3*) An Equality Commissioner shall be eligible for appointment as the Chief Equality Commissioner or a State Chief Equality Commissioner during or after the end of his term, as long as he satisfies requirements specified under this Act.

Resignation and removal of Chief Equality Commissioners and Equality Commissioners.

20. (*1*) The Chief Equality Commissioner or an Equality Commissioner may, at any time, by notice given in writing under his hand addressed to the President, resign from his office.

(*2*) The President may, by order, remove from office the Chief Equality Commissioner or an Equality Commissioner, who—

(*i*) has been adjudged an insolvent; or

(*ii*) engages during his term of office in any paid employment outside the duties of his office; or

(*iii*) has become physically or mentally incapable of performing his duty;

(*iv*) is of unsound mind and stands so declared by a competent court; or

(*v*) has been convicted of an offence which, in the opinion of the President, involves moral turpitude.

(*3*) Subject to the provisions of sub-section (*2*), the Chief Equality Commissioner or an Equality Commissioner shall be removed from his office by order of the President only on the ground of proven misbehaviour or incapacity after the Supreme Court on reference being made to it by the President, has, on inquiry, reported that the Chief Equality Commissioner or an Equality Commissioner, as the case may be, be removed.

Officers and staff of the Central Equality Commission.

21. *(1)* The Central Government shall, in consultation with the Chief Equality Commissioner, provide the Chief Equality Commission and the Equality Commissioner with such, officers and employees as may be necessary for the efficient functioning under this Act:

Provided that any reduction in, officers and employees of the Central Equality Commission shall require a resolution to that effect passed by a majority of the total number of members present and voting in both Houses of Parliament:

Provided further that at least five officers having expertise shall be made available at all times to the Central Equality Commission, including at least one officer in the rank of a Secretary to the Government of India, who shall act as the Secretary to the Central Equality Commission.

(2) The salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed under sub-section (*1*) shall be such as may be prescribed.

(3) In addition to the employees and officers appointed under sub-section (*1*), the Central Equality Commission may employ, through an open and publicly advertised selection process, ten university graduates preferably in the social sciences and law, for interships for a period of two years.

(4) The Central Government shall make provision for reasonable official, living and maintenance costs interns employed by the Central Equality Commission under sub-section (*3*).

Central Government to provide requisite funds.

22. The Central Government shall, after due appropriation made by Parliament by law in this behalf provide requisite funds to the Chief Equality Commission for carrying out the purposes of this Act.

Functions of the Central Equality Commission.

23. (*1*) Without prejudice to any other function assigned to under this Act, the Central Equality Commission shall—

(*i*) climinate discrimination, harassment, boycott, segregation, discriminatory violence and victimization;

(*ii*) encourage the formulation and adoption of good practice in relation to equality, anti-discrimination and diversity, especially for disadvantaged groups;

(*iii*) promote awareness and understanding of the rights and duties under this Act;

(*iv*) assist aggrieved persons in seeking legal remedies provided under this Act;

(*v*) monitor the enforcement of this Act; and

(*vi*) review, from time to time, the functioning of this Act and make recommendations for its improvement.

(*2*) The Central Equality Commission, in consultation with the State Equality Commissions, shall—

(*i*) issue guidelines for protection from discrimination, harassment, boycott, segregation, victimization, discriminatory violence of B from A or A's representative by sub-section (*3*) and (*4*) of section 14, and revise the guidelines, from time to time;

(*ii*) develop a formula for calculating the diversity index for the purposes of sub-section (*2*) of section 13;

(*iii*) issue guidelines specifying particular acts amounting to or not amounting to direct or indirect discrimination, harassment, boycott, segregation, discriminatory violence or victimization, in specific sectors or in relation to particular protected characteristics;

(*iv*) submit an annual Central Equality Report on the effective implementation of this Act, including the functioning of the Central Equality Commission and the State Equality Commissions to the Central Government and shall publish it on its website on the date of submission of the report:

Provided that the Central Government, upon receipt of the Central Equality Report, shall be laid before each House of Parliament:

(*v*) issue guidelines for the provision of diversity training; and

(*vi*) study treaties and other international instruments concerning the promotion of equality and diversity and the prohibition of discrimination and make recommendations for their effective implementation.

(3) The Central Equality Commission shall—

(i) constitute an independent Inquiry Committee consisting of five-member to determine, after investigation, whether a group with certain protected characteristics,

faces widespread and substantial social, economic, political, cultural, or educational disadvantage:

Provided that the Inquiry Committee shall include at least one member of the Central Equality Commission:

Provided further that in order to constitute a valid recommendation at least four members of the Inquiry Committee shall by consensus agree with the recommendation.

(*ii*) issue notification under clause (*xviii*) of sub-section (*1*) of section 5 after the report of the independent Inquiry Committee has been tabled before each House of Parliament:

Provided that the Central Government shall cause the report to be tabled within thirty days of receiving it, or if a House is in recess, within two weeks of the start of its next session before each House of Parliament.

(*4*) The Central Equality Commission shall exercise its powers and duties in a transparent and consultative manner, with a view to advance the purposes of this Act.

Powers of the Central Equality Commission.

24. (*1*) The Central Equality Commission shall, while inquiring into any matter, seeking any information, facilitating the resolution of any dispute or issuing any order under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure 1908.

(*2*) Without prejudice to any other power or duty specified in this Act, the Central Equality Commission may:

(*i*) approach any court for the enforcement of this Act;

(*ii*) require any public servant to undergo diversity training;

(*iii*) take any other reasonable action towards the implementation of this Act;

(*iv*) conduct equality impact assessments of the activities or composition of any public authority or any private person performing a public function;

(*v*) direct a State Equality Commission to investigate any alleged breach of provisions of this Act.

(*3*) Without prejudice to its powers under this Act, the Central Equality Commission may seek any information, including information necessary to calculate the Diversity Index and conduct any investigation in relation to the diversification duty or the due regard duty.

(*4*) If the Central Equality Commission investigation reveals a breach of the provisions of this Act, it shall make suitable recommendations to remedy such breach after giving the person or authority in breach a reasonable opportunity of being heard.

(*5*) The person or authority in breach shall adopt the recommendations made under sub-section (*4*) or propose an alternative set of remedial measures within two months of date of making such recommendations:

Provided that after the expiry of two months from the date of recommendations were received by the person or authority in breach, the Central Equality Commission may reissue the recommendations, including any modifications which it may deem fit, as an order.

State Equality Commission.

25. *(1)* Every State Government shall, by notification in the Official Gazette, constitute a Commission to be known as the State Equality Commission to exercise the powers conferred on, and to perform the functions and duties assigned to it under this Act.

(2) The State Equality Commission shall consist of—

(*a*) a State Chief Equality Commission, who has been a judge of a High Court, or is or has been a Central Equality Commissioner or a State Equality Commissioner for a period of at least three years; and

(b) four other State Equality Commissioners, who shall be a person of eminence integrity and expertise in the area of anti-discrimination and equality including—

(i) at least two legal members, who shall be advocates for least five years in a High Court or the Supreme Court;

(ii) at lest one academic member, have a doctoral degree in the social sciences and an academic position at a university:

Provided that the academic member shall be granted leave without prejudice by his or her employing university for the duration of their term of appointment or until the date of their retirement from their academic appointment, whichever is earlier; and

(*iii*) at least one member of civil society who has worked for organizations committed in advancing the purposes of this Act:

Provided that at least one-half of the member of the State Equality Commissioners shall belong to one or more disadvantaged groups:

Provided further that at leat two State Equality Commissioners shall be women.

(*3*) The State Equality Commission shall include the Chairperson of the State Human Rights Commission, if any, or his representative as an *ex officio* member.

Appointment of the State Chief Equality Commissioner and Equality Commissioners.

26. (*1*) The State Chief Equality Commissioner and State Equality Commissioners shall be appointed by the Governor by warrant under his hand and seal.

(*2*) The State Chief Equality Commissioner and the State Equality Commissioners shall be appointed on the recommendation of a Selection Committee consisting of:

(*i*) a member of the Council of Ministers of that State, as nominated by the State Government.

(*ii*) Leader of Opposition in the State Legislative Assembly.

(*iii*) Chief Justice of the High Court having jurisdiction in the State.

(*iv*) two members of civil society to be nominated by the other three members of the Committee.

(*3*) The general superintendence, direction and management of the affairs of the State Equality Commission shall vest in the State Chief Equality Commissioner, who, assisted by the State Equality Commissioners, may exercise all such powers, perform all such functions and duties and do all such acts and things which may be exercised, performed or done by the Commission autonomously, without being subjected to any control supervision or directions by any other authority, including any department of the Government of India or a State Government.

(*4*) The State Chief Equality Commissioner or a State Equality Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union Territory, or be an officer of the Central or a State Government, or hold any office of profit except by way of employment in a public university, or be a member of any political party or of any organization, union or institution formally or informally allied with a political party.

(*5*) The Selection Committee shall, but not later than six months prior to any vacancy due to arise, issue an advertisement for inviting applications from persons for appointment as the State Chief Equality Commissioner and State Equality Commissioners:

Provided that the advertisement shall contain the criteria on the basis of which the Selection Committee shall select the State Chief Equality Commissioner and the State Equality Commissioners.

Term of office of the State Equality Commission.

27. (*1*) The term of office of the State Chief Equality Commissioner and the State Equality Commissioners shall be five years from the date on which he enters upon his office or when be attains the age of seventy years or, whichever is earlier, and shall not be eligible for re-appointment:

Provided that in order to facilitate a staggered renewal of personnel two of the first set of State Equality Commissioners shall be appointed for a term of four years and the other two for a term of six years.

(2) The salaries and allowances payable to and other terms and conditions of service of the State Chief Equality Commissioner and the State Equality Commissioners shall be such as may be prescribed and shall not be varied to their disadvantage after their appointment, and:

(i) for the State Chief Equality Commissioner shall be the same as that of the State Chief Election Commissioner; and

(ii) for the State Equality Commissioner shall be the same as that of a State Election Commissioner.

(*3*) A State Equality Commissioner shall eligible for appointment as the State Chief Equality Commissioner or a Central Equality Commissioner or a Chief Equality Commissioner during or after the end of his term, as long as he satisfies all other requirements specified under this Act.

Resignation and removal of State Chief Equality Commissioners and State Equality Commissioners.

28. (*1*) The State Chief Equality Commissioner or a State Equality Commissioner may, at any time, by notice given in writing under his hand addressed to the Governor, resign from his office.

(*2*) The Governor of the State may, by order, remove from office the Chairperson or any member if the Chairperson or such member, as the case may be, if the member—

(*i*) has been adjudged an insolvent; or

(*ii*) engages during his term of office in any paid employment outside the duties of his office; or

(*iii*) has become physically or mentally incapable of performing his duty; or

(*iv*) is of unsound mind and stands so declared by a competent court; or

(*v*) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude.

(*3*) Subject to the provisions of sub-section (2), the State Chief Equality Commissioner or a State Equality Commissioner shall be removed from his office by order of the Governor of the State on the ground of proven misbehaviour or incapacity after the High Court, on reference being made to it by the Governor, has, on inquiry, reported that the State Chief Equality Commissioner or the State Equality Commissioner, as the case may be, be removed.

Officers and other staff of the State Equality Commission.

29. *(1)* The State Government shall, in consultation with the State Chief Equality Commissioner, provide that State Chief Equality Commissioner and the State Equality Commissioners with such, officers and employees as may be necessary for the efficient functioning under this Act:

Provided that any reduction, officers and employees of the State Equality Commission shall require a Resolution to that effect passed by a majority of the total number of members present and voting in the Legislative Council and Legislative Assembly, if any:

Provided further that at least five officers with sufficient experience, shall be made available at all times to the State Equality Commission, including at least one officer in the rank of a Secretary to the State Government, who shall act as the Secretary to the State Equality Commission.

(2) The salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed under sub-section (*1*) shall be such as may be prescribed.

(3) In addition to the employees and officers appointed under sub-section (*1*), the State Equality Commission may employ, through an open and publicly advertised selection process, ten university graduates, preferably in the social sciences and law, for internships lasting up to a period of two years.

(4) The State Government shall make provision for reasonable official, living and maintenance costs interns employed by the State Equality Commission.

State Government to provide funds.

30. The State Government shall, after due appropriate made by State Legislative in this behalf, provide requisite funds to the State Chief Equality Commission for carrying out the purpose of the Act.

Functions of the State Equality Commission.

31. (*1*) The State Equality Commission shall—

(*i*) inquire, *suo motu* or on a petition presented to it by an aggrieved person or any person on his behalf, or on direction or order of any court, or the Central Equality Commission, into any complaints of breach of anti-discrimination duty amounting to direct or indirect discrimination, harassment, boycott, segregation, discriminatory violence or victimisation;

(*ii*) conduct equality impact assessments of the activities or composition of any public authority or any private person performing a public function;

(*iii*) submit an annual State Equality Report on the effective implementation of this Act, including the functioning of the State Equality Commission, to the State Government and the Central Equality Commission, and shall publish it on its website on the date of submission of the report:

Provided that the State Government, upon receipt of the Equality Report, shall cause it to be laid before the Legislative Assembly and the Legislative Council, if any.

(*2*) The State Equality Commission shall have original jurisdiction with regard to alleged breach of anti discrimination duty, diversification duty or due regards duty under this Act if occasioned by any form of speech, expression or communication only if the respondent ordinarily resides within its territorial jurisdiction.

(*3*) The State Equality Commission shall abide by the norms of procedural fairness and principles of natural justice while discharging its judicial functions.

(*4*) The State Equality Commission shall, while discharging its judicial functions, give due regard to guidelines issued by the Central Equality Commission under sub-section (*2*) of section 23 of this Act:

Provided that the reasons for disregarding such guidelines shall be recorded in writing.

(*5*) The State Equality Commission shall exercise its powers and duties in a transparent and consultative manner, with a view to advance the purposes of this Act.

Powers of the State Equality Commission.

32. (*1*) The State Equality Commission shall, while inquiring into any matter, seeking any information, facilitating the resolution of any dispute or issuing any order under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure 1908, and in particular,

5 of 1908.

(*i*) summoning and enforcing the attendance of witnesses and examining them under oath.

(*ii*) discovery and production of any document.

(*iii*) receiving evidence on affidavits.

(*iv*) requisitioning any public record or copy thereof from any court or office.

(*v*) issuing commissions for the examination of witnesses or documents,

(*vi*) any other matter which may be prescribed.

(*2*) Without prejudice to its other powers under this Act, the State Equality Commission may seek any information, and conduct any investigation in relation to the diversification duty or the due regard duty.

(*3*) If the State Equality Commission on investigation reveals a breach of the provisions of this Act, it shall make suitable recommendations to remedy such breach after giving the person or authority in breach a reasonable opportunity of being heard.

(*4*) The person or authority in breach shall adopt or propose an alternative set of remedial measures the recommendations made under sub-section (*1*) within two months:

Provided that the expiry of two months from the date of recommendations were received by the person or authority in breach, the State Equality Commission may reissue recommendations, including any modification it may deem fit, as an order.

CHAPTER IV

REMEDIES

Remedies against discrimination.

33. (*1*) Subject to other provisions of this section, the State Equality Commission may issue any appropriate order, declaration, injunction, relief or award to remedy the breach of the anti-discrimination duty, diversification duty or due regard duty, including requiring A, or any other person who is a party to the proceedings before it, to—

(*i*) amend or abandon the discriminatory conduct, policy, criterion, practice or structure.

(*ii*) pay damages, mesne profits, back wages or salary, and any other costs, along with any interest, after adjustment for inflation, to the agrieved persons and, exceptionally, to any other person,

(*iii*) apologize and guarantee non-repetition of the offences in writing to the aggrieved persons,

(*iv*) adopt suitable diversification measures,

(*v*) undergo, or require a person under his or her supervision or control to undergo, diversity training,

(*vi*) investigate and act upon harassment or victimization by another,

(*vii*) put processes, mechanisms or structures in place to avoid future breaches,

(*viii*) guarantee, in writing, the non-repetition of the breach,

(*ix*) give due regard to the need to eliminate all forms of discrimination and to promote eqality and diversity,

(*x*) do or refrain from doing anything else which are prohibited under this Act:

Provided that for acts of aggravated discrimination, exemplary damages shall be awarded.

(*2*) Any remedy specified under sub-section (*1*) shall, except A, be ordered against anyone, who commits aggravated discrimination.

(*3*) The quantum of damages ordered against each respondent who intentionally commits direct or indirect discrimination, harassment and or victimization under this section shall not ordinarily be less than twice the monthly salary of a Member of Parliament at the time of making the order or rupees one lakh, whichever is higher, to each aggrieved person.

(*4*) The quantum of exemplary damages ordered against each respondent who commits aggravated discrimination under this section shall not ordinarily be less than the annual salary of the President of India at the time the order is made or rupees fifteen lakhs, whichever is higher.

Protection order for aggravated discrimination.

34. (*1*) Without prejudice to the powers and duties of the State Equality Commission under this Act, an aggrieved person alleging aggravated discrimination, or any other person acting on behalf of such person, may seek a protection order from the court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which:

(*i*) the alleged discriminator temporarily or permanently resides or operates or carries out business or is employed or is headquartered, or

(*ii*) the cause of action has arisen.

(*2*) The Magistrate shall issue a protection order after being satisfied that the application made by the aggrieved person or by any other person acting on behalf of the aggrieved person *prima facie* provides a reasonable basis to suspect that an act of aggravated discrimination has been committed, is threatened to be committed, is likely to be committed, is being committed, or is likely to continue being committed against such person.

(*3*) A failure to identify particular persons responsible for the alleged discriminatory act or particular aggrieved persons shall not be a ground for refusing to issue a protection order.

(*4*) A protection order may be addressed to any identified or unidentified persons and their formal or informal members, affiliates, volunteers and representatives, as well as to persons who may have supported, justified, provoked, encouraged or facilitated the alleged discriminatory act even if they have not committed or threatened to commit it themselves.

(*5*) The fact that the case may be pursued, is being pursued, or has been pursued, in civil proceedings before the State Equality Commission or the High Court shall not be a ground for refusing to issue a protection order.

(*6*) A protection order under this section may be granted ex parte:

Provided that the Magistrate may, for reasons to be recorded in writing, modify or revoke the order on the application of the addressee of such order if he allays the suspicion that was the basis of the order and shows that the continuing operation of the order, or a part thereof, shall cause him substantial injustice.

(*7*) A protection order may—

(*a*) order particular persons (and their formal or informal members, affiliates, volunteers and representatives) to refrain from:

(*i*) committing or encouraging others to commit any acts prohibited under this Act.

(*ii*) communicating in any form with the person aggrieved or any persons providing support to the person aggrieved.

(*iii*) entering the place of residence, education or workplace of or any other place frequented by the person aggrieved or any persons providing support to the person aggrieved.

(*iv*) committing any other act specified in the protection order:

(*b*) order persons generally, or persons resident or operating a particular geographical area, to refrain from:

(*i*) committing or encouraging others to commit any acts prohibited under this Act against members of the protected group to which the aggrieved person belongs or against anyone else.

(*ii*) committing any other act specified in the protection order:

(*c*) order the State, or any agency of the State, to protect, generally or through specific directions such as quashing any complaints or providing safe accommodation, the safety and security of any person's body, property and rights, including the rights against discrimination guaranteed under this Act:

Provided that the Magistrate shall, after making suitable modifications as may be necessary in order to protect the anonymity of any person, require any order issued under clause (*b*) of this sub-section, or a part thereof, to be published immediately in at least two widely read local newspapers of two different languages, and the date of such publication shall be deemed to be the date of service of such order.

(*8*) A protection order shall, remain in force until the Magistrate is satisfied, on the application of either party, that there is a change in circumstances requiring modification or revocation of such order, when for reasons to be recorded in writing, any appropriate modification or revocation may be made.

(*9*) Save as otherwise provided in this section, all proceedings under this section and shall be governed by the Code of Criminal Procedure, 1973.

(*10*) An appeal shall lie to the Court of Session within thirty days from the date on which the protection order is served on the aggrieved person or the addressee of the protection order, whichever is later.

(*11*) A protection order issued under this section shall be enforceable at any place, even if that place is outside the jurisdiction of the Magistrate who issued it.

Punishment for breach of a protection order.

35. (*1*) Whoever breach a protection order issued under section 34 shall be punished with imprisonment of either description for a term which may extend upto one year, or with fine which may extend upto the annual salary of the President of India, or with both.

(*2*) The offence under sub-section (*1*) shall be tried, as far as practicable, by the Magistrate who had passed the protection order.

(*3*) The offence under sub-section (*1*) shall be cognizable and non-bailable.

Jurisdiction of the High Court.

36. (*1*) The High Court shall have original jurisdiction with regard to any incompatibility between this Act and any other law in force.

(*2*) Any person aggrieved by any order of the Central or the State Equality Commission may file on appeal against order the High Court within whose jurisdiction the said Commission is located within forty-five days from the date on which the order was served upon to him.

CHAPTER V

MISCELLANEOUS

Making a complaint.

37. (*1*) A complaint under this Act may be made by:

(*i*) an aggrieved person, or

(*ii*) if the aggrieved person is deceased, his nearest relative, including any unmarried or cohabiting spouse or partner or any person with whom the deceased intended to marry or enter into a romantic or sexual relationship, or

(*iii*) an organisation representing the aggrieved person on this consent, or

(*iv*) where there are more than one aggrieved person having same interest, any of them acting on behalf of or for the benefit of all of them:

Provided that no such complaint shall be made unless permitted by the Central Equality Commission or the State Equality Commission, as the case may be, which shall not give its permission unless it has taken reasonable measures to notify, either directly or through a notification in two local newspapers, all aggrieved persons or as many of them as is possible to do so.

(*2*) Anyone who makes a false complaint against a member of a disadvantaged group under this Act shall be liable to pay exemplary damages to the person against whom the false complaint was made.

Right to information.

38. (*1*) B has a right to seek the following information, subject to information within the ambit of section 8 of the Right to Information Act, 2005, from A:

22 of 2005.

(*i*) any information necessary to calculate the Diversity Index in relation to any aspect of the composition, operation or functioning of A, or

(*ii*) any information necessary to substantiate a potential or actual claim under this Act.

(*2*) The provisions of the Right to Information Act 2005, shall apply *mutatis mutandis* to the right to information guaranteed under this section.

(*3*) A's refusal or failure to provide the information sought within thirty days of the request with respect to any other person, shall be a ground for B to complain to the State Equality Commission.

(*4*) State Equality Commission if is satisfied that B has the right to the said information, it shall order A to provide it.

Burden of proof.

39. (*1*) In any proceeding before the State Equality Commission under this Act, the plaintiff has the burden of establishing a *prima facie* breach of any duty under this Act:

Provided that if any information is or is likely to be in the possession of the respondent or sought from the respondent under section 38, the respondent's failure to produce such information within thirty days from the date the request was made shall require the Commission to draw an adverse inference against the respondent, unless, for reasons to be recorded in writing, the Commission decides that doing so will cause substantial injustice.

Interim relief.

40. (*1*) If a *prima facie* case of the breach of any duty imposed by this Act is made out in the submissions of the plaintiff, the State Equality Commission may order appropriate interim relief in favour of the plaintiff:

Provided that such interim relief should not be of a nature that is likely to cause serious prejudice to the respondent.

(*2*) Interim relief may be granted *ex parte* if warranted by the circumstances of the case.

(*3*) Interim relief may include a protection order of the nature specified in sub-section (*7*) of section 33.

In-camera proceedings.

41. (*1*) The State Equality Commission may, on the request of the aggrieved person, give directions to protect the anonymity of any person and may conduct any proceedings under this Act *in camera:*

Provided that, on the request of the aggrieved person two persons may be permitted to assist him during the proceedings.

Separate criminal offence.

42. If the same action simultaneously constitutes or may constitute a civil offence under this Act and a criminal offence under any law, its criminal investigation or prosecution or the outcome of such investigation or prosecution shall not prejudice the independent civil proceedings under this Act.

Jurisdiction.

43. (*1*) The reliefs available under this Act may also be sought in any legal proceeding before any court affecting the parties to such proceedings, in addition to any other relief that may be sought in such proceedings.

(*2*) Any order made under this Act shall be enforceable at any place, even if that place is outside the jurisdiction of the Commission that made such order.

Saving.

44. Nothing in this Act shall affect any right, interest or privilege that an aggrieved person has under any other law for the time being in force.

Application to Union Territories.

45. (*1*) Subject to sub-section (*2*), the Central Government shall, *mutatis mutandis,* apply the provisions of this Act to the Union Territories.

(*2*) All powers and functions entrusted to a State Government or a Governor under this Act shall, in relation to any Union Territory with a Council of Ministers responsible to an elected Legislative Assembly, be exercised by the Lieutenant Governor acting on the advice of the Council of Ministers of the Union Territory.

Power to make rules.

46. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(*2*) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(*3*) Every rule made by the Central Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made or issued, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification.

(*4*) Every rule made by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

THE SCHEDULE

Exceptions

[*See* clause (iv) of sub-section (*5*) section 14]

1. Any form of speech or expression protected by Article 19 of the Constitution.

2. Provision for a same-sex service provider for personally intimate services, such as nursing or personal hygiene.

3. Restriction of access to public welfare or public offices to citizens.

4. Requirement of a same-sex tenant for a shared dwelling where the landlord and the temnant share a kitchen, bathroom, living room, or bedroom.

5. Restriction of food menus to certain cuisines, to the exclusion of other food preferences.

6. Political boycott of any Government, organization or company, or a representative of such Government, organization or company that is not designed to target a disadvantaged group.

7. Restriction of membership of an association, not being an association providing any housing, education, employment or services, whose primary objective is to facilitate social interaction between members of a protected group, to persons belonging to that protected group.

8. Discrimination in relation to religion by a place of religious worship, with respect to activities that are essentially religious.

9. Measures designed to protect or benefit children.

10. Provision for a retirement age for employees who are sixty years of age or older.

11. An act, not otherwise illegal, amounting to segregation under sub-section (*1*) of section 10 by a parent in relation to his or her child who under the age of sixteen:

Provided that this exemption does not extend to any act that amounts to segregation under sub-section (*2*) of section 10.

12. Use of a protected characteristic in electoral candidate selection by political parties:

Provided that this exemption shall cease to operate after ten years of the enactment of this Act.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India promises justice, liberty, equality and fraternity to all our citizens. However, discrimination denies these cherished constitutional promises.

Cases of discrimination continue to be witnessed in all spheres of social, economic and political life. They are frequently directed against dalits, muslims, women, persons of different sexual orientations *'hijras'* persons with disabilities, persons from North-Eastern States unmarried couples and non-vegetarians, among others.

There is a need to protect everyone who are subject to all forms of unfair discrimination under a single comprehensive legislation which should be neutral and free from bias. Although it is normally minorities that are at the receiving end of discrimination, the law, in order to be sound, should encompass all citizens. It must protect both minorities as well as majorities, which is the intention of this Bill.

Existing constitutional protections against discrimination under articles 14, 15, 16 and 17 are not sufficient and need to be strengthened with additional statutory protections in order to realize their intended purpose. The constitutional directives under articles 38, 39 and 46, as well as the Fundamental Duty of all citizens under clauses (c) and (e) of article 51A are also intended towards ensuring equality among all.

Group membership is celebrated in a vibrant and pluralistic society such as ours, but the law must ensure that no citizen is discriminated against or put to a disadvantage on account of membership of certain groups. There is also a need to encourage diversity and affirmative action so long as such discrimination exists, including within the State's rosters of employment and in its various instruments. Instead of merely mandating punishment for offences we must simultaneously engender greater understanding and empathy within the system among the individuals who constitute that system.

It is also noted that India is at present an exception among liberal democracies for not enacting a comprehensive law against discrimination, covering both the public and the private sectors. It must be recognized that membership of a group should never adversely affect a citizen's life, and that there is a need to protect all groups and citizens from discrimination in the interests of national unity and diversity.

Hence this Bill.

NEW DELHI;
October 25, 2016.

SHASHI THAROOR

FINANCIAL MEMORANDUM

Clause 17 of the Bill provides that Central Government shall constitute a Central Equality Commission to perform the functions and duties assigned to it under this Act. It also provides for appointment of Equality Commissioners to the Central Equality Commission. Clause 18 provides for appointment of a Selection Committee by the Central Equality Commission. Clause 19 provides for salaries and allowances payable to Chief Equality Commissioners and Equality Commissioners of the Central Equality Commission. Clause 21 provides for appointment of officers and employees by the Central Government to the Central Equality Commission. Clause 22 provides for Central Government to provide requisite funds to the Central Equality Commission. Clause 25 provides for constitution of State Equality Commission by the State Governments. Clause 27 provides for salaries and allowances payable to State Chief Equality Commissioners and Equality Commissioners of the State Equality Commission. Clause 29 provides for appointment of officers and employees by the State Government to the State Equality Commission. Clause 30 provides for State Government to provide requisite funds to the State Equality Commission. The expenditure relating to States shall be borne out of the Consolidated Funds of State Governments concerned. However, the expenditure relating to Union territories shall be borne out of the Consolidated Fund of India. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees five hundred crore per annum would involve from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 46 of the Bill empowers the Central Government and the State Governments to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 282 OF 2016

A Bill to provide for the protection, preservation, promotion and development of India's Traditional Knowledge and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Protection of Indian Traditional Knowledge Act, 2016.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*i*) "appropriate Government" means the concerned State Government or the Union Territory administration;

(*ii*) "commercial use" means making available any product, process, material, form, practice or performance, that is traditional knowledge, for sale in the market or making available for sale in market the outcome of any research in traditional knowledge;

(*iii*) "community" means a group of people or family, whether indigenous, tribal or otherwise, residing within the boundaries of the national territory, who can be identified as a separate group from other groups or other members of the society by reason of their exclusive association with one or more forms of traditional knowledge;

(*iv*) "licensee" means any person who holds either the community traditional knowledge license or the State traditional knowledge license and is authorized to use the traditional knowledge subject to the conditions of the license;

(*v*) "large scale enterprise" means an enterprise which is not a micro, small or medium enterprise as per the definition of the Micro, Small and Medium Enterprise Development Act, 2006 by the Central Government by notification in the Official Gazette and includes any industry classified as a large industry;

27 of 2016.

(*vi*) "non-commercial use" means making available any product, process, material, form, practice or performance, that is traditional knowledge, for purposes other than commercial use and includes the use of such knowledge for research, provided that the research is conducted and disseminated as per the guidelines of the Central Government;

(*vii*) "person" means any citizen of India, body corporate, whether incorporated or not, partnership or organization, whether registered or not, or anyone who is not a citizen of India;

(*viii*) "prescribed" means prescribed by rules made under this Act;

(*ix*) "traditional knowledge" means knowledge and expression of culture, which may subsist in codified or oral or other forms, whether publically available or not, that is dynamic and evolving and is passed on from generation to generation, for at least 3 generations, whether consecutively or not, which is associated with group or groups who are maintaining, practicing or developing it in traditional cultural context and includes know-how, skills, innovations, practices, learning, medicinal preparations, method of treatment, literature, music, art forms, designs and marks but does not include any traditional knowledge covered by any law for the time being in force providing for its preservation, promotion, management or unauthorized commercial exploitation;

(*x*) "National Authority" means National Authority on Traditional Knowledge constituted under section 12;

(*xi*) "State Board" means the State Board constituted under section 24;

(*xii*) "TKDL" means Traditional Knowledge Digital Library, that is, the system of identifying, classifying, codifying and cataloguing traditional knowledge obtained or derived from India and maintained by the unit of the Council of Scientific and Industrial Research; and

(*xiii*) "TKDS" means Traditional Knowledge Docketing System of registration to identify communities with their respective traditional knowledge, maintained by the State Boards and coordinated by the National Authority.

CHAPTER II

OWNERSHIP AND RIGHTS

Custodian.

3. (*1*) For all traditional knowledge that is obtained, derived or practiced solely within the State, the concerned State Government, and in all other cases, the Central Government, shall be the custodian of the traditional knowledge.

(*2*) The appropriate Government may transfer the custodianship of the traditional knowledge to a community in such manner, as may be prescribed, provided such community sufficiently prove that—

(*i*) the traditional knowledge practiced by them is distinct;

(*ii*) the traditional knowledge is exclusively practiced by that community;

(*iii*) the community can be sufficiently delineated from others;

(*iv*) no person has any objection to the community claiming custodianship of the traditional knowledge:

Provided that in every case of refusal of transfer of custodianship, the appropriate Government shall record the reasons of refusal in writing.

(*3*) Any community that wishes to be recognized as a custodian of the traditional knowledge shall register with the appropriate Government.

Rights of communities as custodians.

4. (*1*) Subject to the conditions laid down in sub-section (*3*) of section 9, all practitioners of traditional knowledge within a community, recognized as custodian of traditional knowledge under section 3, shall have the collective right to—

(*i*) create, maintain, control and develop their protected traditional knowledge;

(*ii*) authorize, deny or revoke, the access to and utilization of traditional knowledge by non-members;

(*iii*) have a 'brand name' or a unique name associated with the traditional knowledge;

(*iv*) be informed of access to their traditional knowledge through a disclosure mechanism in all applications, which shall require evidence of consent prior to the applications, and benefit sharing requirements, in accordance with this Act;

(*v*) a fair and equitable share of benefit, whether in monetary or non-monetary terms, arising from the utilization of traditional knowledge;

(*2*) All persons who are practitioners of the traditional knowledge of a community, identified as members of that community, shall have the right to commercial and non-commercial use of the attributed traditional knowledge.

(*3*) The community shall have the right to grant license to a non-member for the use of traditional knowledge and revoke such license for good cause:

Provided that grant of license to a non-member shall be notarised by the appropriate Government.

(*4*) The community may seek advice of the appropriate Government on granting a license to a non-member.

(*5*) The community shall regulate its rights and use with respect to their traditional knowledge, against members and non-members, by forming a decision making body in such form and manner as the community deem appropriate.

(*6*) The decision making body under sub-section (*5*) shall be formed by election of its members by majority vote of each of the member of the community.

(*7*) The term of the decision making body shall be five years.

Community Traditional Knowledge License.

5. (*1*) Subject to the approval of the community in writing, the 'community traditional knowledge license' shall be an agreement between the community and any non-member who wishes to use the traditional knowledge.

(*2*) The licensee shall have the non-exclusive license for non-commercial use of the traditional knowledge:

Provided that the use of the traditional knowledge shall be accompanied with clear labelling, demarcation or identification of the original traditional knowledge, its custodians and the license document.

Illustration.—The use of traditional knowledge for research shall be accompanied with the referencing such "The traditional knowledge referring to ... was obtained with the permission of ... as per license agreement ... available with ..."

(*3*) Any enrichment, development or advancement of the traditional knowledge as a result of its non-commercial use shall be included back to the realm of the original traditional knowledge to be placed in the custody of the original custodian.

(*4*) Subject to the provisions of sub-section (*3*), the licensee shall be made a member of the community and receive one vote in the decision making body of the community, with regard to the use of such enrichment, development or advancement, whether for commercial or non-commercial use.

(*5*) Every user under the license shall sign a non-disclosure agreement with the community, in order to prevent the dissemination of traditional knowledge to unauthorized persons.

Explanation.—For the purpose of this sub-section, published research with adequate referencing and credit to the original custodian shall not be considered as a breach of the non-disclosure agreement.

(*6*) Where a licensee has a non-exclusive license for commercial use of traditional knowledge, a mutually agreeable and equitable benefit sharing contract shall be agreed upon between the licensee and the licensor and notarised by the appropriate Government:

Provided that such license shall be non-transferable and licensee, shall not transfer the technology associated with the traditional knowledge or allow the use of the traditional knowledge by a non- licensee.

State Traditional Knowledge License.

6. (*1*) Subject to conditions laid down in sub-section (*3*) of section 9, all actual practitioners of traditional knowledge, which is in the custody of the appropriate Government, shall be deemed to have 'State Traditional Knowledge License' given by the appropriate Government, but shall not have the right to transfer this license to anyone else.

(*2*) The Licensee shall have the non-exclusive license for non-commercial use of the traditional knowledge:

Provided that the use of the traditional knowledge shall be accompanied with clear labelling, demarcation or identification that the traditional knowledge is obtained or derived from India.

Illustration.—The use of traditional knowledge for research shall be accompanied with the referencing as "This traditional knowledge referring to ... was obtained /derived from India and is in the custody of the Union of India".

(*3*) Any enrichment, development or advancement of the traditional knowledge as a result of its non-commercial use shall be included back to the realm of the original traditional knowledge, to be placed in the custody of the original custodian.

(*4*) Subject to the provisions of sub-section (*3*), the licensee shall be felicitated by the

appropriate Government as having contributed to such enrichment, development or advancement of traditional knowledge, in a manner as prescribed by the appropriate Government.

(*5*) Where a licensee has a non-exclusive license for commercial use of traditional knowledge, such license shall be non-transferable, licensee shall not transfer the technology associated with the traditional knowledge or allow the use of the traditional knowledge by a non-licensee.

Transfer from State License to Community License.

7. (*1*) If, over the course of time, a community is granted custody of a traditional knowledge, the 'state traditional knowledge license' shall cease to be applicable one year from the date of grant of custody, and practitioners who are deemed non-members at the time shall have one year to seek a 'community traditional knowledge license' from the community decision-making body.

(*2*) The appropriate Government may grant a 'community traditional knowledge license' to a practitioner who is deemed a non-member, during such period of one year, in the absence of a relevant community decision making body.

(*3*) The National Authority may not grant any 'community traditional knowledge license', one year after the grant of custodianship to a community.

Patents and Intellectual Property Protection.

8. (*1*) No patents or any other form of intellectual property protection shall be granted or applied for by any person, within India or abroad, on any traditional knowledge obtained or derived from India, whether in the custody of the community or appropriate Government.

(*2*) An invention or alternative form or formula based on traditional knowledge may be patented subject to the Patents Act, 1970. 39 of 1970.

(*3*) Subject to the Patents Act, 1970, prior to submitting an application with the patents office, with regard to filing a patent on invention based on the traditional knowledge obtained or derived from India, the applicant shall acquire permission from the National Authority. 39 of 1970.

Misappropriation and regulation of traditional knowledge.

9. (*1*) The misappropriation of traditional knowledge shall include, but is not limited to—

(*i*) access and use of the traditional knowledge without prior approval of the appropriate Government or community;

(*ii*) use of traditional knowledge by violating the conditions laid down in sections 5 and 6 for the community traditional knowledge license and the state traditional knowledge license;

(*iii*) where applicable, violating any condition agreed to between the authorised user of the traditional knowledge and the custodian of traditional knowledge, for whatever purpose, whether commercial or non-commercial;

(*iv*) gaining a patent or intellectual property protection or attempting to gain patent or intellectual property protection by breaching the provisions of section 8;

(*v*) any act that is in breach of confidence and which results in the violation of any law in force; and

(*vi*) such misappropriation, which may or may not have resulted into gainful profit for the violator or may or may not have caused any harm to the custodians, monetary or otherwise.

(*2*) The misappropriation of traditional knowledge shall be deemed to be an offence and be punishable under this Act.

(*3*) The persons who shall not have rights as laid down in section 4 or who shall not have deemed license under section 6 and be required to take the approval or license from the community or the appropriate Government are the following, namely:—

(*i*) a person who is not a citizen of India;

(*ii*) a citizen of India, who is a non-resident as defined in clause (*30*) of section 2 of the Income tax Act, 1961; 43 of 1961.

(*iii*) a body corporate, association or organization not incorporated or registered in India;

(*iv*) a body corporate, association or organization incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management;

(*v*) a body corporate, association or organization incorporated or registered in India which is a large scale enterprise; and

(*vi*) anyone, who is not a relevant custodian of the traditional knowledge, defined as per this Act.

Civil remedies for misappropriation of traditional knowledge.

10. (*1*) Where traditional knowledge has been misappropriated, the custodian shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of a right.

(*2*) The costs of all parties in any proceedings in respect of the misappropriation of traditional knowledge shall be in the discretion of the court.

Punishment for misappropriation.

11. (*1*) Whoever is found guilty of misappropriation under clause (*i*) of sub-section (*1*) of section 9 shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to ten lakh rupees and, where the damage caused exceeds ten lakh rupees, such fine as may commensurate with the damage caused, or with both.

(*2*) Whoever is found guilty of misappropriation under clauses (*ii*) to (*vi*) of sub-section (*I*) of section 9 shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five lakh rupees, and, where the damage caused exceeds five lakh rupees, such fine as may commensurate with the damage caused, or with both.

(*3*) If any person contravenes any direction given or order made by the Central Government, the State Government, the National Authority or the State Board for which no punishment has been separately provided under this Act, he shall be punished with a fine which may extend to one lakh rupees and in case of a second time offence, with fine which may extend to two lakh rupees and in the case of continuous contravention with additional fine may extend to two lakh rupees everyday during which the default continues.

(*4*) Where an offence or contravention under this Act has been committed by a company, every person who at the time of the offence or contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence or contravention committed unless proved that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention.

(*5*) Notwithstanding anything contained in sub-section (*4*), where an offence or contravention under this Act has been committed by a company and it is proved that the offence or contravention has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly.

CHAPTER III

NATIONAL AUTHORITY ON TRADITIONAL KNOWLEDGE

Composition

12. *(1)* With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established by the Central Government for the purposes of this Act, a body to be called the National Authority on Traditional Knowledge.

(*2*) The National Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(*3*) The head office of the National Authority shall be at Thiruvananthapuram and the National Authority may, with the previous approval of the Central Government, establish offices at other places in India.

(*4*) The National Authority shall consist of the following members—

(*i*) a Chairperson, who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of India's traditional knowledge, patents and intellectual property protections, and in matters relating to equitable sharing of benefits, to be appointed by the Central Government;

(*ii*) *ex-officio* members, to be appointed by the Central Government, one each as representatives of the following ministries and departments—

(*a*) Ministry of Tribal Affairs;

(*b*) Ministry of Science and Technology;

(*c*) Ministry of Law and Justice;

(*d*) Office of the Controller General of Patents, Designs and Trade Marks;

(*iii*) the Director General of the Council of Scientific and Industrial Research;

(*iv*) the Chairperson of the National Biodiversity Authority;

(v) five non-official non-voting members to be appointed from amongst specialists and scientists, in an advisory capacity, having special knowledge of, or experience in, matters relating to conservation and sustainable use of traditional knowledge, patents and intellectual property protections, and equitable sharing of benefits arising out of the use of traditional knowledge, representatives of industry, conservers, creators and knowledge holders of India's Traditional knowledge:

Provided that one such member shall be the head of the Traditional Knowledge Digital Library unit of the Council of Scientific and Industrial Research.

Conditions of service of Chairperson and members.

13. *(1)* The salary, term of office and conditions of service of the Chairperson and the members other than the ex-officio members of the National Authority shall be such as may be prescribed by the rules made by the Central Government.

(*2*) The Chairperson shall be the Chief Executive of the National Authority and shall exercise such powers and perform such duties, as may be prescribed by rules made by the Central Government.

(*3*) The Central Government may remove from the National Authority any member who, in its opinion, has—

(*i*) been adjudged as an insolvent; or

(*ii*) been convicted of an offence which involves moral turpitude; or

(*iii*) become physically or mentally incapable of acting as a member; or

(*iv*) so abused his position as to render his continuance in office detrimental to the public interest; or

(*v*) acquired such financial or other interest as is likely to affect prejudicially his functions as a member;

(*vi*) acquired any other conflict of interest as is likely to affect prejudicially his functions as a member.

(*4*) The National Authority shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be prescribed by rules made by the Central Government.

(*5*) The Chairperson of the National Authority shall preside at the meetings of the National Authority.

(*6*) If for any reason, the Chairperson is unable to attend any meeting of the National Authority, any member of the National Authority chosen by the members present at the meeting shall preside at the meeting.

(*7*) All questions and appeals which come before any meeting of the National Authority shall be decided by a majority of votes consisting of two-thirds of the members present and voting and in the event of equality of votes, the Chairperson or, in his absence, the person presiding, shall have and exercise a second or casting vote.

(*8*) Every member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be decided at the meeting shall disclose the nature of his concern or interest and after such disclosure, the member concerned or interested shall not attend that meeting.

(*9*) No act or proceeding of the National Authority shall be invalidated merely by reason of—

(*i*) any vacancy in, or any defect in the constitution of the National Authority; or

(*ii*) any defect in the appointment of a person acting as a member; or

(*iii*) any irregularity in the procedure of the National Authority not affecting the merits of the case.

Committees of National Authority.

14. (*1*) The National Authority may constitute such number of committees as it deems fit for the efficient discharge of its duties and performance of its functions under this Act.

(*2*) A committee constituted under this section shall co-opt such number of persons, who are not the members of the National Authority, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

Officers and employees of National Authority.

15. The National Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

Authentication of orders and decisions.

16. All orders and decisions of the National Authority shall be authenticated by the signature of the Chairperson or any other member authorized by the National Authority in this behalf and all other instruments executed by the National Authority shall be authenticated by the signature of an officer of the National Authority authorized by it in this behalf.

Delegation of powers.

17. The National Authority may, by general or special order in writing, delegate to any member or officer of the National Authority or any other person subject to such conditions, if any, as may be specified in the order, such of the powers and functions under this Act (except the power to prefer an appeal under section 42 and the power to make rules under section 49) as it may deem necessary.

Salaries and Allowances of National Authority.

18. The salaries and allowances payable to the members and the administrative expenses of the National Authority including salaries, allowances and pension payable to, or in respect of, the officers and other employees of the National Authority shall be defrayed out of the Consolidated Fund of India.

Central Government to provide grants and loans to the National Authority.

19. The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay by way of grants or loans such sums of money to the National Authority as the Central Government may think fit for carrying out the purposes of this Act.

National Traditional Knowledge Fund.

20. *(1)* There shall be constituted a Fund, to be managed by the National Authority, to be called the National Traditional Knowledge Fund and there shall be credited to the Fund—

(i) any grants and loans made to the National Authority under section 19;

(ii) all royalties and other benefits received by the National Authority on traditional knowledge under its custody; and

(iii) all sums received by the National Authority from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for—

(i) channeling benefits to the benefit claimers;

(ii) conservation, promotion and development of traditional knowledge; and

(iii) socio-economic development of persons practising traditional knowledge in consultation with the local bodies concerned.

Budget accounts and audit.

21. (1) The National Authority shall prepare a budget, maintain proper accounts and other relevant records (including the accounts and other relevant records of the National Fund) and prepare an annual statement of account in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.

(*2*) The accounts of the National Authority shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the National Authority to the Comptroller and Auditor General of India.

(*3*) The Comptroller and Auditor General of India and any other person appointed by him in connection with the audit of the accounts of the National Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books accounts, connected vouchers and other documents and papers and to inspect any of the offices of the National Authority.

(*4*) The accounts of the National Authority as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government.

Functions of the National Authority.

22. (*1*) The National Authority shall be deemed the custodian of the national traditional knowledge on behalf of the Central Government.

(*2*) The National Authority shall advise the Central Government on matters relating to grants of erroneous patents based on India's traditional knowledge.

(*3*) The National Authority shall compile and maintain a central and unified TKDS, by acquiring such details from the State TKDS as may required.

(*4*) The National Authority shall settle all disputes and ambiguities in regard to

communities as custodians of traditional knowledge, after investigation and consultation with the TKDL unit or any experts it deems necessary, and the decision shall reflect in the TKDS.

(*5*) The National Authority shall examine any dispute, application or appeal, brought to its notice in a manner prescribed by the Central Government, and after due investigation and hearing, grant decisions as per powers vested in it by this Act.

(*6*) The National Authority may—

(*i*) advise the Central Government on matters relating to the conservation and sustainable use of traditional knowledge and equitable sharing of benefits arising out of the utilization of traditional knowledge;

(*ii*) advise the Central Government on matters relating to TKDL access (non-disclosure) agreements with foreign patent offices and such other matters as may be deemed necessary, for access to material from the TKDL;

(*iii*) assist the right holders to negotiate terms with other possible users, whether commercial or non-commercial;

(*iv*) undertake promotional activities for traditional knowledge;

(*v*) perform such other functions as may be necessary to carry out the provisions of this Act.

(*7*) The National Authority shall nominate the head of the TKDL unit for the protection, preservation and development of the TKDL, by inviting applications for the post with such terms and conditions of service, as it may deem necessary:

Provided that the National Authority shall invite applications for the post of head of TKDL unit by advertising the terms of reference by Government notification and by such other means as may be necessary for a period of one month or if necessary for more than one month.

(*8*) The National Authority shall issue guidelines in accordance with provisions of sub-section (*2*) of section 3 for the certification of communities with the State Board, in order for them to be recognized as custodians of traditional knowledge.

(*9*) The National Authority may, after consultation with any expert committee constituted in this regard, declare any form of traditional knowledge, 'under threat of extinction', and shall constitute special provisions and programmes to prevent the extinction of the traditional knowledge.

(10) The National Authority shall, in consultation with the Central Government and an expert committee constituted for such purpose, frame guidelines for benefit sharing agreements, for the benefit of the communities and the State, which may be given effect in all or any of the following manner, namely:

(*i*) transfer of technology;

(*ii*) location of production, research and development units in such areas which will facilitate better living standards to the benefit claimers;

(*iii*) association of benefit claimers and the local people with research and development in traditional knowledge and its utilization;

(*iv*) setting up of venture capital fund, for aiding the cause of benefit claimers;

(*v*) payment of such monetary compensation and non-monetary benefits to the benefit claimers as the National Authority may deem fit.

(*vi*) payment of royalty on commercial use;

(*vii*) joint patenting or royalty from benefits arising out of patenting;

(*11*) The National Authority shall prepare an annual traditional knowledge report on the operation of this Act, including the functioning of the National Authority, the State Boards, the Central and State Governments with regard to India's traditional knowledge.

(*12*) The National Authority shall lay the report prepared under sub-section (*11*) before each House of Parliament for a total period of thirty days and shall also publish the report on its website.

Powers of the National Authority.

23. (*1*) The National Authority shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:— 5 of 1908

(*i*) summoning and enforcing the attendance of any person and examining him on oath;

(*ii*) requiring the discovery and production of documents;

(*iii*) receiving evidence on affidavits;

(*iv*) issuing commissions for the examination of witness or documents;

(*v*) reviewing its decisions;

(*vi*) dismissing an application for default or deciding it *ex parte*;

(*vii*) setting aside any order of dismissal of any application or any order passed by it *ex parte*;

(*viii*) any other matter which may be prescribed.

(*2*) All members, officers and other employees of the National Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

CHAPTER IV

STATE BOARD OF TRADITIONAL KNOWLEDGE

Composition.

24. (*1*) With effect from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established by that Government for the purposes of this Act, an Authority for the State to be known as the (name of the State) State Board on Traditional knowledge.

(*2*) Notwithstanding anything contained in this section, no State Board shall be constituted for a Union territory and in relation to a Union territory, the National Authority shall exercise the powers and perform the functions of a State Board for that Union territory:

Provided that in relation to any Union territory, the National Authority may delegate all or any of its powers or functions under this sub-section to such person or group of persons as the Central Government may specify.

(*3*) The State Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(*4*) The State Board shall consist of the following members, namely:

(*i*) a Chairperson, who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of traditional knowledge, patents and intellectual property protection and in matters relating to equitable sharing of benefits, to be appointed by the National Authority.

(*ii*) three *ex-officio* members, namely:—

(a) President of the State Sahithya Academy or Folklore Academy:

(b) Vice-Chancellor of a University to be nominated by the State Government;

(c) the Advocate-General of the State;

(*iii*) one scientist having adequate knowledge and experience in the conservation and sustainable use of traditional knowledge, patents and intellectual property protection and in matters relating to equitable sharing of benefits nominated by the State Government;

(*iv*) not more than five non-official members from amongst experts in matters relating to conservation and sustainable use of traditional knowledge, patents or other forms of intellectual property protections and equitable sharing of benefits arising out of the use of traditional knowledge, to be appointed by the State Government.

(*5*) The head office of the State Board shall be at such place as the State Government may, by notification in the Official Gazette, specify.

Conditions of service of Chairperson and members.

25. (*1*) The salary, term of office and conditions of service of the Chairperson and the members other than *ex-officio* members of the State Board shall be such as may be prescribed by rules made by the State Government.

(*2*) The Chairperson shall be the Chief Executive of the State Board and shall exercise such powers and perform such duties, as may be prescribed by rules made by the State Government.

(*3*) The State Government may remove from the State Board any member who, in its opinion, has—

(*i*) been adjudged as an insolvent; or

(*ii*) been convicted of an offence which involves moral turpitude; or

(*iii*) become physically or mentally incapable of acting as a member; or

(*iv*) so abused his position as to render his continuance in office detrimental to the public interest; or

(*v*) acquired such financial or other interest as is likely to affect prejudicially his functions as a member;

(*vi*) acquired any other conflict of interest as is likely to affect prejudicially his functions as a member.

(*4*) The State Board shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be prescribed by rules made by the State Government.

(*5*) The Chairperson of the State Board shall preside at the meetings of the State Board.

(*6*) If for any reason, the Chairperson is unable to attend any meeting of the State Board, any member of the State Board chosen by the members present at the meeting shall preside at the meeting.

(*7*) All questions and appeals which come before any meeting of the State Board shall be decided by a majority of votes consisting of two-thirds of the members present and voting and in the event of equality of votes, the Chairperson or, in his absence, the person presiding, shall have and exercise a second or casting vote.

(*8*) Every member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be decided at the meeting shall disclose the nature of his concern or interest and after such disclosure, the member concerned or interested shall not attend that meeting.

(*9*) No act or proceeding of the State Board shall be invalidated merely by reason of—

(*i*) any vacancy in, or any defect in the constitution of the State Board; or

(*ii*) any defect in the appointment of a person acting as a member; or

(*iii*) any irregularity in the procedure of the State Board not affecting the merits of the case.

Officers and employees of State Board.

26. The State Board may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

Authentication of orders and decisions of State Board.

27. All orders and decisions of the State Board shall be authenticated by the signature of the Chairperson or any other member authorized by the State Board in this behalf and all other instruments executed by the State Board shall be authenticated by the signature of an officer of the State Board authorized by it in this behalf.

Delegation of powers.

28. The State Board may, by general or special order in writing, delegate to any member or officer of the State Board or any other person subject to such conditions, if any, as may be specified in the order, such of the powers and functions under this Act (except the power to prefer an appeal under section 42 and the power to make rules under section 50) as it may deem necessary.

Expenses of State Board on Traditional Knowledge.

29. The salaries and allowances payable to the members and the administrative expenses of the State Board including salaries, allowances and pension payable to, or in respect of, the officers and other employees of the State Board shall be defrayed out of the Consolidated Funds of the State.

Grants and loans to State Board.

30. The State Government may, after due appropriation made by the State Legislature by law in this behalf, pay to the State Board by way of grants or loans such sums of money as the State Government may think fit for being utilized for the purposes of this Act.

Constitution of State Traditional Knowledge Fund.

31. (*1*) There shall be constituted a Fund, to be managed by the State Board, to be called the State Traditional Knowledge Fund and there shall be credited to the Fund—

(*i*) any grants and loans made to the State Board under section 30;

(*ii*) any grants or loans made by the State Government;

(*iii*) all sums received by the State Board from such other sources as may be decided upon by the State Government or the National Authority.

(*2*) The State Fund shall be applied for—

(*i*) the management and conservation of traditional knowledge;

(*ii*) compensating or rehabilitating any section of the people economically affected by acts committed under sub-section (*1*) of section 9 or the violation of the rights of traditional knowledge practitioners;

(*iii*) conservation, promotion and development of traditional knowledge;

(*iv*) socio-economic development of persons practicing traditional knowledge in consultation with the local bodies concerned; and

(*v*) meeting the expenses incurred for the purposes authorized by this Act.

Audit of accounts of State Board.

32. The accounts of the State Board shall be maintained and audited in such manner as the State Government may, in consultation with the Accountant General of the State, prescribe and the State Board shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon.

Functions of State Board.

33. (*1*) The State Board shall be deemed the custodian of the traditional knowledge of the State on behalf of the State Government.

(*2*) The State Board shall, after sufficient scrutiny of details as prescribed in sub-section (*2*) of section 3, register communities as communities of traditional knowledge, after following due process as prescribed in section 35, and as further prescribed by the National Authority.

(*3*) The State Board shall ensure that the TKDS remains up to date and that all decisions of the State Board, National Authority or the courts, in regard to the custodianship of communities of traditional knowledge, are reflected in the TKDS within one week of the grant of decision.

(*4*) The State Board may—

(*i*) advise the State Government on matters relating to the conservation and sustainable use of traditional knowledge and equitable sharing of benefits arising out of the utilization of traditional knowledge;

(*ii*) advice the Central Government on matters relating to grants of erroneous patents based on India's traditional knowledge;

(*iii*) assist the right holders to negotiate terms with other possible users, whether commercial or non-commercial for which they may charge a fee;

(*iv*) undertake promotional activities for traditional knowledge;

(*v*) perform such other functions as may be necessary to carry out the provisions of this Act.

(*5*) The State Board may facilitate and support, in any manner necessary, the indentifying, classifying, codifying and cataloguing of all traditional knowledge of the State, in collaboration with the TKDL unit.

(*6*) The State Board shall, by any act or measure necessary, promote and protect the traditional knowledge of the State and the rights of the communities, and build awareness of the communities on the aforementioned rights as custodians of traditional knowledge.

(*7*) The State Board may, after consultation with any expert committee constituted in this regard, declare any form of traditional knowledge 'under threat of extinction', and shall constitute special provisions and programs to prevent the extinction of such traditional knowledge.

(*8*) The State Board shall prepare an annual traditional knowledge report on the operation of this Act, including the functioning of the State Board and State Government with regards to the State's Traditional knowledge.

(*9*) The State Board shall lay the report prepared under sub-section (*8*) before the State's Legislative Assembly and Council if applicable, for a total period of thirty days and shall also publish the report on its website.

Powers of the State Board on Traditional knowledge.

34. (*1*) The State Boards shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

5 of 1908

(*i*) summoning and enforcing the attendance of any person and examining him on oath;

(*ii*) requiring the discovery and production of documents;

(*iii*) receiving evidence on affidavits;

(*iv*) issuing commissions for the examination of witness or documents;

(*v*) reviewing its decisions;

(*vi*) dismissing an application for default or deciding it *ex parte*;

(*vii*) setting aside any order of dismissal of any application or any order passed by it *ex parte*;

(*viii*) any other matter which may be prescribed.

(*2*) All members, officers and other employees of the State Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code, 1860. 45 of 1860

CHAPTER V

PROCEDURES, TKDS, TKDL AND FUNCTION OF GOVERNMENT

Application for grant of custodianship.

35. (*1*) The National Authority or the State Board, as the case may be, shall, after receiving an application and fees in a manner prescribed and sufficient scrutiny of details as per sub-section (*2*) of section 3, accept an application from a community, to be recognized as custodians of traditional knowledge.

(2) The National Authority or the State Board, as the case may be, shall give wide publicity for at least one month to the application for grant of custodianship of traditional knowledge to a community with a view to invite any objections or grievances to such grant of custodianship.

(*3*) The National Authority or the State Board, as the case may be, shall examine objections or grievances brought to its notice in regard to grant of custodianship and after following due process, take a decision on application for grant of custodianship.

(*4*) The National Authority or the State Board, as the case may be, shall decide on grant of custodianship as per powers vested in it by this Act.

(*5*) In case of grant of custodianship to the community, the National Authority or the State Board, as the case may be, shall issue a certification, and a unique and exclusive docket number from its TKDS, to the community.

Traditional Knowledge Docketing System.

36. (*1*) A Traditional knowledge Docketing System (TKDS) shall be created and maintained by each State Board for its jurisdiction and centrally coordinated and maintained by the National Authority.

(*2*) The TKDS shall be deemed as a register in order to identify the custodian community with the traditional knowledge.

(*3*) The TKDS shall constitute—

(*i*) details of the custodian community for the traditional knowledge like the nature or definition by which members of the community may be identified and where they may be found.

(*ii*) a short non-exploitable description of the traditional knowledge:

Explanation.—The description of the traditional knowledge shall be enough to identify the traditional knowledge but not so much that it can be exploited without the consent of the community.

(*iii*) the community protocol, if any, which shall include matters like details of the decision making body of the community, whom to contact and how to approach the community.

Traditional Knowledge Digital Library.

37. (*1*) The Traditional Knowledge Digital Library unit shall maintain, protect and develop India's Traditional Knowledge Digital Library (TKDL) for the purposes of identifying, classifying, codifying and cataloguing the traditional knowledge that is obtained or derived from India.

(*2*) The TKDL unit shall attempt to identify, classify, codify and catalogue India's traditional knowledge which is in the custody of the appropriate Government.

(*3*) The TKDL unit shall attempt to identify, classify, codify and catalogue the traditional knowledge in the custody of any community, if the community provides consent to the TKDL unit, prior to its use.

(*4*) In the case of traditional knowledge in the TKDL, before the custody of traditional knowledge is transferred to a community, the community may, by way of notification through the appropriate Government, choose to purge the information relating to their traditional knowledge from the TKDL.

(*5*) The TKDL shall be made available to patent or intellectual property offices around the world, by whatever name called, as 'prior art', to prevent or revoke the grant of erroneous patents on India's Traditional Knowledge, under reasonable and necessary non-disclosure and privacy agreements.

(*6*) The access to the TKDL shall only be granted on consent of the custodian and after signing a non-disclosure agreement with the TKDL unit.

Functions of the Central Government.

38. (*1*) The Central Government may take any measures necessary to oppose, prevent or get revoked, the grant of patents or any other form of intellectual property protection, within India or abroad, which is based on traditional knowledge obtained or derived from India.

(*2*) The Central Government may constitute such schemes and programs, as it deems necessary, for the protection, preservation, promotion and development of traditional knowledge obtained or derived from India, as per the spirit of this Act.

Functions of the State Government.

39. (*1*) The State Government may take any measures necessary to oppose, prevent or get revoked the grant of patents or any other form of intellectual property protection, within India, which is based on traditional knowledge obtained or derived from its jurisdiction.

(*2*) The State Government may constitute such schemes and programs, as it deems necessary, for the protection, preservation, promotion and development of traditional knowledge, as per the spirit of this Act.

CHAPTER VI

MISCELLANEOUS

National Authority to be bound by the directions given by Central Government.

40. (*1*) Without prejudice to the foregoing provisions, the National Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the National Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

(*2*) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of the State Government to give directions.

41. (*1*) Without prejudice to the foregoing provisions, the State Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the State Government may give in writing to it from time to time:

Provided that the State Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(*2*) The decision of the State Government whether a question is one of policy or not shall be final.

Settlement of disputes.

42. (*1*) Every determination, order or adjudication made by the National Authority in regard to any dispute shall be given in such form and after following such procedure as may prescribed by rules made by the Central Government:

Provided that before determining, ordering or adjudicating, the parties shall be given a reasonable opportunity of being heard.

(*2*) While adjudicating any dispute under this section, the National Authority shall be guided by the principles of natural justice.

Appeals.

43. (*1*) Any person, aggrieved by any determination or order of the State Board under this Act, may file an appeal to the National Authority within sixty days from the date of communication to him, of the determination or order of the State Board.

(*2*) Any person, aggrieved by any determination, order or adjudication of the National Authority under this Act, may file an appeal to the Supreme Court within thirty days from the date of communication to him, of the determination or order of the National Authority:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Execution of determination or order.

44. Every determination or order made by the National Authority or by the Supreme Court in any appeal against any determination or order of the State Board or the National Authority shall, on a certificate issued by any officer of the National Authority or the Registrar of the Supreme Court, as the case may be, be deemed to be decree of the civil court and shall be executable in the same manner as a decree of that court.

Explanation.—For the purposes of this section, the expression "State Board" includes the person or group of persons to whom the powers or functions under sub-section (*2*) of section-xx have been delegated under the proviso to sub-section (*2*) of section 24 and the certificate relating to such person or group of persons under this section shall be issued by such person or group of persons, as the case may be.

Protection of action taken in good faith.

45. No suit, prosecution or other legal proceedings shall lie against the Central Government or the State Government or any officer of the Central Government or the State Government or any member, officer or employee of the National Authority or the State Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Offences to be cognizable and non-bailable.

46. The offences under this Act shall be cognizable and non-bailable.

Act to have effect in addition to other Acts.

47. The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force, relating to biodiversity.

Power of Central Government to give directions to State Government.

48. The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any rule or regulation or order made thereunder.

Cognizance of offences.

49. No Court shall take cognizance of any offence under this Act except on a complaint made by—

(a) the Central Government or any authority or officer authorized in this behalf by that Government; or

(b) any benefit claimer who has given notice of not less than thirty days in the prescribed manner, of such offence and of his intention to make a complaint, to the Central Government or the authority or officer authorized as aforesaid.

Power of Central Government to make rules.

50. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for any of the following matters, namely:—

(*i*) form of application and the manner for transfer of traditional knowledge under sub-section (*2*) of section 3;

(*ii*) manner of felicitation under sub-section (*4*) of section 6;

(*iii*) terms and conditions of service of the Chairperson and members under sub-section (*1*) of section 13;

(*iv*) powers and duties of the Chairperson under sub-section (*2*) of section 13;

(*v*) procedure under sub-section (*4*) of section 13 in regard to transaction of business at meetings;

(*vi*) allowances of committee members under sub-section (*3*) of section 14.

(*vi*) form in which the annual statement of account shall be prepared under sub-section (*1*) of section 21;

(*viii*) form of application and payment of fees for undertaking activities under sub-section (*1*) of section 35;

(ix) the additional matter in which the National Authority may exercise powers of the civil court under sub-section (*1*)(*viii*) of section 23;

(x) the manner of giving notice under sub-section (*5*) of section 22;

(xi) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(*3*) Every rule made under this section and every regulation made under this Act shall be laid, as soon as may he after it is made, before each House of Parliament, while it is in session or a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power of State Government to make rules.

51. (*1*) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*i*) form of application and the manner for transfer of traditional knowledge under sub-section (*2*) of section 3;

(*ii*) manner of felicitation under sub-section (*4*) of section 6;

(*iii*) terms and conditions of service of the Chairperson and members under sub-section (*I*) of section 25;

(*iv*) powers and duties of the Chairperson under sub-section (*2*) of section 25;

(*v*) procedure under sub-section (*4*) of section 25 in regard to transaction of business at meetings;

(*vi*) the manner of maintaining and auditing the accounts of the State Board and the date before which its audited copy of the accounts together with auditor's report thereon shall be furnished under section 32;

(*vii*) form of application and payment of fees for undertaking activities under sub-section (*1*) of section 35;

(*viii*) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(*3*) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to give effect to the provisions of the Act.

52. The National Authority shall, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.

Power to remove difficulties.

53. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

India is one of the oldest societies of the world, as well as one that has been most aware and conscious of its surroundings. Its observations over the years have translated into one of the largest repositories of knowledge about medicinal preparations, method of treatment, literature, music, art forms, designs, marks etc. as well as a vast range of know-how, skills, innovations, practices and learning. Collectively this constitutes India's traditional knowledge, which has become, in many ways, an expression of our culture.

The advancement of science, technology and commerce offers considerable opportunity for the benefit and spread of India's traditional knowledge. However, since many of the indigenous communities who are its custodians still rely on their traditional knowledge for their livelihood and identity, its misappropriation can severely prejudice their interests.

For instance, patenting and intellectual property protection grants ownership and exclusive rights of use over innovative knowledge. There have already been several attempts to acquire such exclusive protections over India's traditional knowledge, which is a gross injustice. Traditional knowledge is neither an innovation nor held by any single person. Rather it is passed down and refined over several generations and thus may not be considered as 'intellectual property'.

Even as the World Intellectual Property Organization (WIPO) holds consultations to define and provide guidelines for traditional knowledge and its management, India must appropriate all its traditional knowledge to ensure that any application of it is accompanied with recognition of its original custodians. Moreover, India must ensure that the application of traditional knowledge does not harm the interests of its custodians and the benefits are equitably shared between the communities and the users.

In this regard India has even setup an innovative and one-of-its-kind Traditional Knowledge Digital Library to classify and codify India's traditional knowledge so that it can be offered as 'prior art' to prevent the grant of erroneous patents. Parliamentary recognition shall give it the due importance it deserves to protect India's interests. However, it should be complimented with a system of registration that identifies the traditional knowledge with its rightful custodians.

The protection of traditional knowledge must ensure that there is enough incentive for research and innovation and for its benefits to be shared in a fair manner. There is a vast amount of social benefit from further development of traditional knowledge, and it must equally reward those who are willing to invest in it.

This Bill recognizes the complete and absolute right of the Union of India over the traditional knowledge that exists within its national territory. In addition, it recognizes the contribution of specific communities in the development of the traditional knowledge by giving them certain rights, including the right to self-determination. The Bill also proposes administrative framework to manage traditional knowledge in India.

Legislation is required so that traditional knowledge of India is rightly attributed, correctly defined and its use appropriately incentivized to maximize its potential benefits.

Hence this Bill.

NEW DELHI;
October 15, 2016.

SHASHI THAROOR

FINANCIAL MEMORANDUM

Clause 12 of the Bill provides that the Central Government shall establish a National Authority on Traditional Knowledge. It also provides for appointment of a Chairperson and other members to the National Authority. Clause 15 of the Bill provides for appointment of Officers and other employees to the National Authority. Clause 19 of the Bill provides that Central Government shall provide grants and loans to the National Authority for carrying out the purposes of this Act. Clause 35 of the Bill provides that National Authority shall give wide publicity for application for grant of custodianship of traditional knowledge to a community. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees five hundred crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 50 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matter of detail only, the delegation of legislative power is of a normal character.

BILL NO. 11 OF 2017

A Bill to designate certain States as sponsor of terrorism, to provide for withdrawal of trade relations with such States, to create legal, economic and travel sanctions for the citizens of such States and for matters connected therewith or incidental thereto.

WHEREAS the Islamic Republic of Pakistan propagates and harbours agents of international terror who have repeatedly attacked the territory and people of the Republic of India and there is an urgent need to co-ordinate activities at the international and national level to ensure the best response to protect the interests of the Republic of India and its citizens;

AND WHEREAS, the Islamic Republic of Pakistan poses a continual risk to the peace and security of the region so long as it continues to harbour agents of terror and propagates acts of terror against the territory and citizens of the Republic of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Declaration of States as Sponsor of Terrorism Act, 2017.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "abet" includes

(*i*) the communication or association with any person or class or persons who is engaged in assisting in any manner terrorists and disruptionists;

(*ii*) the passing on or the publication of, without any lawful authority, any information likely to assist the terrorists or disruptionists or the passing on or the publication or distribution of any document or matter obtained from terrorists or disruptionists;

(*iii*) the rendering of any assistance, whether financial or otherwise, to terrorists or disruptionists; and

(*iv*) the failure to apprehend and punish, as per the laws of such country, persons involved in any terrorist act against the people or any section of the people in India;

(*b*) "terrorist act" means doing of any act with intent to threaten or likely to threaten the unity, integrity, security or sovereignty of India or with the intent to strike terror in the people or any section of the people in India, or in any foreign country, or with the intent to influence by threat or likely to influence by the threat the Government of India or an international Government organisation—

(*i*) by using bombs, dynamites or other explosive substances or inflammable substances or firearms or other lethal weapons or poisonous or noxious gases or other chemicals of by any other substances (whether biological, radioactive, nuclear or otherwise) of hazardous nature or by any other means or whatever nature to cause—

(*a*) death of, or injuries to any person or persons; or

(*b*) loss of, or damage to or destruction of property; or

(*c*) disruption of any supplies or services essential to the life of the community in India or in any foreign country; or

(*d*) damage or destruction of any property in India or in a foreign country used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies; or

(*ii*) by overawing by means of criminal force or the show of criminal force of attempts to do so or causes death of any public functionary; or

(*iii*) by designing to seriously interfere with or seriously disrupts an electronic system, computer system or network or to attempt to do so; or

(*iv*) by providing support by means of sponsoring or making provisions, including by non-enforcement of any law to prevent the same for the training of any militia paramilitary or guerrilla forces to wage proxy war against the Government of India; or

(*v*) by detaining, kidnappings or abducting any person and threatens to kill or injure such person or does any other act in order to compel the Government of India, any State Government or the Government of a foreign country or any other person to do or abstain from doing any act, commits a terrorist act.

Explanation I.—For the purpose of this section, public functionary means the constitutional authorities and any other functionary notified in the Official Gazette by the Central Government as a public functionary under the Unlawful Activities (Prevention) Act, 1967.

Explanation II.—For the purposes of this section, a terrorist act shall include an act of terrorism involving citizens or the territory of more than one country.

Explanation III.—For the purposes of this section, Without prejudice to the foregoing provisions and unless the context so requires otherwise, the term 'terrorism' shall mean premediated violence motivated by any political, religious, radical or ideological cause perpetrated against 'non-combatant' targets by sub-national groups or clandestine agents.

Explanation IV.—For the purposes of this section, it is clarified that 'non-combatant' implies, in addition to civilians, military personnel (whether or not armed or on duty) who are not deployed ina war zone or even if they are deployed in a war zone are not directly taking part in hostilities or are *hors de combat*.

(c) "State sponsor of terrorism" means the Islamic Republic of Pakistan and includes such other countries designated as sponsor of terrorism by the Central Government by notification in the Official Gazette.

Prohibitions.

3. (*1*) Whoever being a head of the State sponsor of terrorism or member of the Government of such State or a citizen or a body corporate belonging or affiliated to a country designated by the Central Government as a State sponsor of terrorism shall be subject to the following prohibitions—

(*a*) he shall be prohibited to travel within the territory of India and shall not be eligible for the grant of visa;

(*b*) he shall be prohibited from trading with any individual, entity or body corporate in India;

(*c*) he shall prohibited from receiving or making grants, financial remittances, investments or assets of any description whether corporeal or incorporeal, movable or immovable, tangible or intangible, wherever located, or providing or receiving financial assistance or aid from or to any individual entity or body corporate in India;

(*d*) he shall be subject to prohibition of undertaking maritime activities including but not limited to fishing or trawling or entering the territorial waters of India;

(*e*) he shall be prohibited from overflight over the geographical boundaries of India.

(*2*) The Central Government may, if it deems appropriate, relax the prohibition referred to in clauses (*a*) to (*e*) of sub-section (*1*).

Restrictions for aiding and abeting.

4. (*1*) Any individual being a head of the State, member of the Government, a citizen or a body corporate of another country, who abets the State sponsor of terrorism shall be subject to such prohibitions referred to sub-section (*1*) of section 3 as the Central Government may deem appropriate.

(*2*) The Central Government may, if it deems appropriate, relax the prohibitions of sub-section (*1*).

Liability of officials of States Sponsor of Terrorism.

5. (*1*) The Central Government may, by notification in the Official Gazette, revoke the diplomatic immunity of officials of a State sponsor of terrorism and make such officials amenable to the jurisdiction of the courts in India.

(*2*) Notwithstanding anything contained in other law for the time being in force, an official of a State designated as sponsor of terrorism shall not be immune from any suit brought against him in any Court in India in which monetary damages and compensation are sought against such State for causing physical injury to persons or damage to property or death of persons by an act of terrorism.

Opposition of assistance by International Financial Institutions.

6. The Government of India shall use all available diplomatic means including its voting power to oppose any loan or other use of funds of any International Financial Institution to a State sponsor of terrorism.

Explanation.—In this section, the term 'International Financial Institution' includes the International Bank for Reconstruction and Development and the International Monetary Fund.

Prohibition in trade and investment.

7. (*1*) No individual, or body corporate shall import into or export from the territory of India any goods or services from or into any country which has been designated as a State sponsor of terrorism.

Explanation.—In this sub-section, the term 'import into or export from the territory of India' shall include transactions in foreign exchange or transfer credit or payment between any banking institution or a national thereof or import or export of currency or securities to and from a State sponsor of terrorism.

(*2*) No individual or body corporate shall make any new investment in a State sponsor of terrorism or in property owned or controlled by the Government of such a State or a national thereof.

Offences and Penalties.

8. (*1*) Whoever contravenes any provision of this Act, or otherwise deals in any manner whatsoever, with a State sponsor of terrorism, shall be published with imprisonment for a term which may extend to five years or with fine or with both.

(*2*) An offence punishable under this Act shall be cognizable.

STATEMENT OF OBJECTS AND REASONS

Violent non-State actors have been attacking various parts of India since decades. The support of certain States to these terrorist and disruptionist groups has strengthened these groups resulting in an increase of such activities in the borders and the heartland of India.

The Islamic Republic of Pakistan has been supporting many such terrorist groups that have been attacking India. The linkage of the Islamic Republic of Pakistan in many terrorist activities in the country, including the recent Pathankot and Uri attacks have been clearly established.

In the light of the prevailing conditions it is necessary to:

1. designate such States as 'State Sponsor of Terrorism';

2. withdraw economic and trade relations with such States; and

3. protect the interests of the India at the national and international level.

Hence this Bill.

NEW DELHI;
September 26, 2016.

RAJENDRA AGRAWAL

THE SCHEDULE

[*See* sections 2(c) and 3(1)*]*

1. The Islamic Republic of Pakistan

BILL NO. 272 OF 2016

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement

1. (*1*) This Act may be called the Indian Penal Code (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

45 of 1860.

Substitution of new section for section 304A.

2. For section 304A of the Indian Penal Code, 1860, the following section shall be substituted, namely:—

Death due to rash and negligent driving including road rage or driving under influence of liquor.

"304A. (*1*) Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both:

Provided that if the death is caused by doing an act involving rash driving or drunken driving or in the course of road rage, the person causing death shall be punished with imprisonment of either description which may extend to ten years and with fine which may extend to five lakh rupees.

Explanation.— In this sub-section, the expression,—

(*a*) 'road rage' includes arguments or aggressive behaviour leading to use of force or fire arms or weapons or stones or any other instrument resulting in death of any person; and

(*b*) 'drunken driving' means driving under the influence of liquor, drug or any other intoxicant.

(*2*) The fine imposed under the proviso to sub-section (*1*) shall be paid to the family of the victims in such manner as the court may deem appropriate.".

STATEMENT OF OBJECTS AND REASONS

Death due to negligent driving, drunken driving and road rage is increasing alarmingly and persons involved in such offences are presently punished under section 304A of the Indian Penal Code, 1860 with imprisonment for a term which may extend up to two years, which is not adequate. Therefore, it is essential to enhance punishment for causing death due to any rash and negligent act including road rage or while driving under influence of liquor considering the loss of life and property involved.

Hence this Bill.

NEW DELHI;
October 25, 2016.

MULLAPPALLY RAMACHANDRAN

BILL NO. 292 OF 2016

A Bill to balance the right to personal reputation within the right to free speech by providing for repeal of substantive offence of defamation and its punishments; consolidate the common law relating to civil defamation; comprehensively provide for the protection of speech and reputation and for matters connected therewith or incidental thereto.

WHEREAS the Universal Declaration of Human Rights, 1948 [General Assembly res. 217A(III)] adopted and proclaimed by United Nations General Assembly on 10th December, 1948; under Article 19 guarantees the right to freedom of expression;

AND WHEREAS article 15 of the Constitution of India guarantees the right to freedom of speech and expression;

AND WHEREAS the Universal Declaration of Human Rights, 1948 under article 12 further obligates states to protect honor and reputation of persons by enacting legislation;

AND WHEREAS the UN Special Rapporteur on Freedom of Opinion and Expression based on these international obligations has stated that imprisonment is not a legitimate sanction for defamation and called for its repeal in several reports to the UN Commission on Human Rights including those on 29th January 1999, 18th January 2000 and 26th January 2001;

AND WHEREAS it is considered necessary to implement the aforesaid declaration and the reports.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and extent.

1. (*1*) This Act may be called the Protection of Speech and Reputation Act, 2016.

(*2*) It extends to the whole of India, except the State of Jammu and Kashmir.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "amend" includes an explanation, classification, rebuttal, correction, retraction and apology;

(*b*) "author" means the first speaker of a statement, but does not include a person who had no intention for publication of the Statement;

(*c*) "Code" means the Code of Civil Procedure, 1908; 5 of 1908

(*d*) "defamation" means the serious harm caused to the reputation of any person as a result of a false statement made by another person;

(*e*) "editor" means a person having direct editorial or equivalent responsibility for the content of the statement or the decision to publish it;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "publisher" includes—

(*i*) a "publisher" as per the Press and Registration of Books Act, 1867; 25 of 1867

(*ii*) any person or company, owning or operating a, "cable television network" as defined under the Cable Television Networks (Regulation) Act, 1995; or 7 of 1995

(*iii*) any person or company, who publishes a statement in an "electronic form" except an "intermediary" as defined under the Information Technology Act, 2000; 25 31 of 2000

(*h*) "publication" means making the statement available to the public;

(*i*) "public servant" has the meaning assigned to it in the Indian Penal Code, 1860; 25 of 1860

(*j*) "intermediary" has the meaning assigned to it in the Information Technology Act, 2000; 30 21 of 2000

(*k*) "statement" means words, pictures, sounds, images, videos, gestures or any other method signifying meaning, used, individually or in combination, by an author that is published or communicated to public; and

(*l*) "serious harm" means a false statement made against a person that affects his reputation severely which may be proved by circumstances subsequent to the publication of the statement.

(*2*) Words and expressions used but not defined in this Act and defined in the Code of Civil Procedure, 1908 shall have the meaning assigned to them in the Code. 5 of 1908

CHAPTER II

SUITS FOR DEFAMATION

Suits for defamation.

3. (*1*) A person shall not be prohibited from making a statement except when it has the effect of causing serious harm to the reputation of another person, resulting in the defamation of such another person.

(*2*) Any false statement, which has the effect of marginalizing a person on the basis of his gender identity or sexual orientation without the consent of such person, shall be deemed to have the effect of causing serious harm to such person.

(*3*) Notwithstanding anything contained in this Act or any other law for the time being in force, harm to the reputation of any company, limited liability partnership, partnership firm, sole proprietorship or other association of individuals engaged in commercial or professional activities shall not be treated as serious harm unless such harm causes or appears to cause serious financial loss which may be proved by circumstances subsequent to the publication of the statement.

(*4*) Subject to the provisions of this Act, any person who has suffered defamation as a result of the statement made by another person shall have the right to institute a suit for damages in the court of competent jurisdiction against such person.

Mandatory notice of a suit for defamation.

4. (*1*) No suit under this Act shall be instituted unless, prior to instituting a suit for defamation, the plaintiff has given notice to the author, editor or publisher of the statement that is alleged to be defamatory and the author, editor or publisher within a period of two weeks after receipt of the notice fails to satisfy the demand as per the reasonable satisfaction of the person seeking to institute a suit for defamation.

(*2*) A notice for the purposes of sub-section (*1*) shall contain the following particulars—

(*a*) the statement alleged to be defamatory with particulars as to when and where it was made and came to the knowledge of the person issuing the notice;

(*b*) the reasons as to how the statement alleged to be defamatory caused serious harm to the reputation of the person issuing the notice;

(*c*) the role of the author, editor or publisher separately identified in authoring, editing or publishing the statement;

(*d*) the name and place of the District Court or a High Court having original civil jurisdiction where the suit for defamation will be filed; and

(*e*) the details of any other suit filed in respect of the statement which is same or substantially similar along with the name and place of the Court where it has been filed.

(*3*) The demand made under the notice shall include the relief sought and—

(*a*) apology, correction and/or retraction in a manner and form as demanded; and

(*b*) monetary damages on the basis of the provisions of this Act.

(*4*) Any notice to the author, editor or publisher shall be delivered in the following manner—

(*a*) all notices shall be sent through registered post to the address of the author, editor or publisher against whom the suit for defamation is sought to be filed:

Provided that when the address of the author, editor or publisher is not available, a public notice shall be issued in such form and manner, as may be prescribed;

(*b*) a copy of the notice shall also be sent by registered post to the office address, if available, of the author, editor or publisher against whom the suit for defamation is sought to be filed;

(*c*) notwithstanding anything in clauses (*a*) and (*b*), in case the publication containing the statement is made available on the internet, a notice may be delivered by—

(*i*) sending an e-mail, if e-mail address is available, attaching therewith the notice with the electronic signature of the person sending the e-mail;

(*ii*) the e-mail shall also be sent to any e-mail address which is separately mentioned in the terms and conditions of the website for service of notices:

Provided that when the e-mail address of the author, editor or publisher is not available a public notice shall be issued in such form and manner, as may be prescribed:

Provided further that no notice shall be sent to an intermediary:

Provided also that when the intermediary is the only internet website where the statement is published, notice shall be sent to the author, editor or publisher and not to the intermediary.

Response to notice of a suit for defamation.

5. (*1*) A person who has received a notice under section 4 may offer to make amends in relation to the statement complained to be defamatory and any such offer to make amends shall be—

(*a*) made within a period of two weeks from the date of receipt of the notice under sub-section (*4*) of section 4;

(*b*) made in writing;

(*c*) expressed to be an offer to make amends; and

(*d*) clearly stated whether it is a qualified offer and, if so, set out the defamatory meaning in relation to which it is made.

(*2*) An offer to make amends under sub-section (*1*) may include any of the following offers—

(*a*) to make a suitable correction of the statement complained of and sufficient apology to the aggrieved party;

(*b*) to publish the correction and apology in a manner that is reasonable and practicable to the aggrieved party; and

(*c*) to pay the aggrieved party such compensation, if any, and such costs, as may be agreed or determined to be payable.

(*3*) An offer to make amends under sub-section (*1*) of section 5 may be withdrawn before it is accepted and a renewal of an offer which has been withdrawn shall be treated as a new offer.

Acceptance of an offer to make amends.

6. (*1*) An aggrieved party that has sent a notice under section 4 may accept an offer to make amends made under section 5.

(*2*) Where an aggrieved party has accepted an offer to make amends under section 5, it shall not be entitled to institute or continue proceedings in respect of the statement concerned against the person making the offer, but shall be entitled to enforce the offer to make amends through legal proceedings.

Rejection of an offer to make amends.

7. (*1*) When an offer to make amends under section 5 is rejected by the aggrieved party, such offer shall not—

(*a*) constitute an expression or implied admission of fault or liability by the person in connection with that matter; and

(*b*) be considered relevant to the determination of fault or liability in connection with that matter.

(*2*) Notwithstanding anything contained in the Indian Evidence Act, 1872, any offer to make amends under section 5 shall not be admissible in proceedings as evidence of the fault of the person making it.

Illustration:—X is aggrieved by certain statements issued by Y in a press conference and X complains of defamation. Y offers to make amends. However this written proposal offered by Y is not found satisfactory by X. Y's offer to make amends and the written proposal for the same shall not be considered to be an admission of Y's guilt and used against Y in evidence during court proceedings.

CHAPTER III

INSTITUTION AND PARTIES TO A SUIT FOR DEFAMATION

Institution of a suit for defamation.

8. After a person has complied with the provisions of sub-section (*1*) of section 4, he may institute a suit for defamation in the following manner—

(*a*) No suit for defamation shall be instituted by any person other than the person who has suffered serious harm by a false statement:

Provided that where such person is under the age of eighteen years, or is of unsound mind, or is suffering from sickness or infirmity and is unable to make a complaint, or is a woman who, according to the local customs and manners, is restrained from appearing in public, some other person may institute the suit on their behalf:

Provided further that when a person institutes a suit on behalf of another person, such person shall do so by taking leave of the court which shall consider it and pass an order prior to issuing summons to a defendant; and

(*b*) An aggrieved party may institute a suit for defamation being a member of a readily identifiable association or group of person if—

(*i*) the statement is made against an identifiable association or group of persons;

(*ii*) the statement has caused serious harm to the identifiable association or group of persons;

(*iii*) the aggrieved party is a natural person; and

(*iv*) the aggrieved party is a member of such identifiable association or group of persons:

Provided that when a natural person institutes a suit as a member of a readily identifiable association or group of persons, it shall be by taking leave of the court which shall consider it and pass an order prior to issuing summons to a defendant.

Suits by Government and public servants.

9. (*1*) A Government agency or any local authority or institution performing government or statutory functions shall not be entitled to institute suits for defamation under this Act.

(*2*) No suit for defamation shall be instituted or held maintainable when the statement is made against a public servant with respect to his acts and conduct relating to the discharge of his official or public duties:

Provided that a suit for damages by a public official seeking damages for defamatory statement be deemed to be maintainable if it is proved that the statement was made with reckless disregard for truth:

Provided further that when a public servant institutes a suit for defamation, it shall be by taking leave of the court which shall consider it and pass an order prior to issuing summons to a defendant.

Illustration:—A is the chief minister of the State of X. Y is a journalist who authors an article which alleges an abuse of power by A which A claims contains defamatory statements.

The State of X cannot file a suit for defamation on behalf of A. However, A can file a suit as A is a public official.

Since the statement which has been alleged by A to be defamatory relates to the discharge of official or public duties by A, in order that suit for defamation is maintainable, A has to first establish serious harm to his reputation and that it was made with reckless disregard for the truth.

Establishing that the statement made against A by Y is false shall not by itself constitute a reckless disregard for truth but it shall also require extreme negligence, malice, ill-will or bad faith.

Defendant to a suit for defamation.

10. (*1*) Any suit for defamation shall proceed only against the author, editor or publisher of the statement and shall contain particulars identifying each defendant under the category of an author, editor or a publisher.

(*2*) In the case of statement made in any book, newspaper or paper, the plaintiff shall identify the author, editor or publisher as per the declarations contained under the Press and Registration of Books Act, 1867: 25 of 1867.

Provided that where the statement is not governed by the provisions of the Press and Registration of Books Act, 1867, the plaintiff shall make reasonable efforts to ascertain the author, editor or publisher and the explanation of such effort should be contained in the particulars of the plaint. 25 of 1867.

(*3*) An intermediary shall not be considered the author, editor or publisher of any statement and shall not to be made party to any suit for defamation.

Explanation.—For the purposes of this section—

(*1*) an intermediary shall comply with the order and judgment of a court without being a party to the proceedings therein;

(*2*) any defendant may claim the status of an intermediary even if such a person is alleged to be the author, editor or publisher of the statement by the plaintiff in a suit for defamation.

CHAPTER IV

LIMITATION ON CAUSE OF ACTION IN A SUIT FOR DEFAMATION

No cause of action for defamation of, or against, deceased persons.

11. (*1*) No person (including the legal heirs and descendants of a deceased person) shall institute, continue or enforce a cause of action for defamation in relation to—

(*a*) a statement about a deceased person, irrespective of whether such statement is published before or after the death of such person; or

(*b*) a statement made by a person who has died since it was published, notwithstanding anything contained in the Indian Succession Act, 1925:

Provided that a cause of action for a suit for defamation shall exist, when a statement is not limited to a deceased person and extends to any other person who has suffered direct, serious harm as a consequence of it.

(*2*) For the purposes of this section, a body corporate shall be considered a deceased person from the date a court passes an order for its dessolution or declaration of insolvency.

Single cause of action for multiple defamatory statements in the same matter.

12. A person shall have a single cause of action for defamation in relation to the publication of a defamatory statement about the person even if more than one defamatory statement about the person is carried in the same matter.

Single cause of action for subsequent publication.

13. (*1*) For the purpose of counting time from which period begins to run in suits for compensation for libel under the Limitation Act, 1963 in case of subsequent statements of substantially same form as first, after being published in the cause of action against the author, editor or publisher in respect of the subsequent statement shall be deemed to have accrued on the date of the first publication.

(*2*) For the purpose of counting time from which period begins to run in suits for compensation for slander under the Limitation Act, 1963 in case of subsequent spoken statements of substantially same form as first spoken statement, the cause of action as well as special damage against the author, editor or publisher shall be deemed to have accrued on the date of the first spoken statement.

(*3*) The provision of this section shall not apply to the subsequent statement if the matter of the subsequent statement is materially different from the matter of the first statement.

CHAPTER V

DEFENCES TO A SUIT FOR DEFAMATION

Defence of truth.

14. (*1*) A defendant shall not be deemed to have committed defamation if the statement alleged to be defamatory or the imputation coveyed by it is substantially true.

(*2*) In a suit for defamation in which a statement is alleged to be defamatory, the defendant shall not be held liable merely because one or more statements are shown to be materially false unless such statement also causes serious harm to the reputation of the plaintiff.

(*3*) Notwithstanding anything contained in any law for the time being in force, in cases involving statements on matters of public concern, the plaintiff shall bear the burden of proving the falsehood of any statement or imputation of fact alleged to be defamatory.

Defence of opinion and inference.

15. (*1*) In a suit for defamation, a defendant shall not be deemed to have committed defamation if the statement alleged to be defamatory is a statement of opinion or a factual inference and the conditions laid down in sub-section (*2*) are satisfied.

(*2*) The following conditions must be satisfied by a defendant to avail the defence of opinion and inference-

(*a*) the statement complained of is a statement of opinion or a factual inference;

(*b*) in case the statement complained of is a statement of opinion, the statement complained of shall indicate, whether in general or specific terms, the basis of the opinion;

(*c*) in case the statement complained of is a statement of factual inference, the statement complained of shall reasonably summarise the matters from which the inference has been or may be drawn including any such matters militating against the inference; and

(*d*) a reasonable person must be able to hold the opinion or draw the inference on the basis of any relevant facts known to the author of the statement at the time the statement complained of was published.

(*3*) The defence of opinion and factual inference shall not apply if it is proved that the defendant did not hold the opinion and in respect of a factual inference, the defendant was malicious.

Certain statements not to constitute defamation.

16. (*1*) Notwithstanding anything contained in this Act, the publication of following statements, which shall be protected by absolute privilege, shall not constitute defamation—

(*a*) a statement made in proceedings of any meeting or sitting of:

(*i*) the Council of States or the House of the People;

(*ii*) the Legislative Council or the Legislative Assembly;

(*iii*) any local authority or committee of a local authority;

(*iv*) any commission, tribunal, committee or inquiry by a person appointed for the purposes under the Central Government or the State Act by the appropriate Government;

(*v*) any local inquiry by a person appointed by a local authority in pursuance of any of the Central or the State Act;

(*vi*) any other tribunal, committee or board constituted and exercising functions by or under the Central Government or the State Act; and

(*b*) Statements contained in reports written in any of the bodies mentioned in this section;

(*c*) statements made—

(*i*) in proceedings before a court, tribunal or authority that has the power to act judicially or exercising judicial or quasi-judicial functions;

(*ii*) in communications between any person and an advocate or legal counsel for the purpose of obtaining or rendering legal advice; and

(*iii*) under the penalty of perjury or under an oath.

(*2*) Notwithstanding anything contained in this Act, any fair and accurate publication of the following statements shall be protected by conditional privilege and shall not constitute defamation unless made with malice—

(*a*) proceedings of a Legislature of any foreign country or of a committee of any such Legislature, or an International Organisation of which India is a member, or of organisations recognised by the United Nations, or of any international conference to which the Government of India sends a representative;

(*b*) findings or decisions of associations or any committee or governing body in relation to a person who is a member of or is subject, by virtue of any contract, to its control;

(*3*) The proceedings at a general meeting of any company or association constituted, registered or certified by or under a Central or State Act.

CHAPTER VI

PROCEDURE

17. (*1*) No suit for defamation under this Act shall be instituted in any court inferior to a district court having jurisdiction to try the suit.

(*2*) Notwithstanding anything contained in the Code of Civil Procedure, 1908, a suit for defamation shall be instituted within the local limits of a district court where the defendant resides, or carries on business, or personally works for gain:

Provided that where the address of the defendant is unavailable or exists beyond the territorial extent of India the aggrieved party may institute a suit for defamation at a place where the publiction containing the statement is first made available to the public:

Provided further that in instance when the address of the defendant is unavailable or exists beyond the territorial extent of India and the publication containing the statement is made on the internet, then the aggrieved party may institute a suit for defamaton in a district court within the local limits of whose jurisdiction, at the time of the institution of the suit or other proceeding, the person instituting the suit or other proceeding or, where there are more than one such person, any of them actually and voluntarily resides or carries on business or personally works for gain.

(*1*) A suit for defamation shall only be filed under this Act in a court as has been stated in the notice for defamation; however, the statement of a specific court in a notice does not confer jurisdiction to a district court which otherwise does not have jurisdiction as per the provisions of this Act.

Power to transfer and consolidate cases.

18. (*1*) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case(s) or appeal be transferred from one High Court to another High Court or from a Civil Court subordinate to one High Court to another Civil Court of equal or superior jurisdiction subordinate to another High Court.

(*2*) The Supreme Court may act under this section only on the application of the Attorney General of India or of a party interested, and every such application shall be made by motion, which shall, except when the applicant is the Attorney-General of India or the Advocate-General of the State, be supported by affidavit or affirmation.

Relief in suits for defamation.

19. (*1*) The relief which a court may grant in any suit for defamation includes injunction (subject to such terms, if any, as the court thinks fit) at the option of the plaintiff and damages.

(*2*) The order of injunction under sub-section (*1*) may include any of the following reliefs, namely:

(*a*) a suitable correction of the statement found to be defamatory and sufficient apology to the aggrieved party;

(*b*) to publish the correction and apology in a manner that is reasonable and practicable to the aggrieved party;

(*c*) to pay the aggrieved party such compensation by way of damages (if any).

(*3*) The costs of all parties shall be as per the discretion of the court and the Court shall take into account the travel and business costs incurred by the parties while assigning costs.

Quantification of damages.

20. (*1*) An aggrieved party shall not be awarded exemplary or punitive damages in a suit for defamation.

(*2*) In determining the amount of damages to be awarded in any defamation proceedings, the court is to ensure that there is an appropriate and rational relationship between the harm sustained by the aggrieved party and the amount of damages awarded.

(*3*) The court may determine the appropriate and rational relationship between the harm sustained by the aggrieved party and the amount of damages based on the following factors—

(*a*) the proportionality of the harm with direct financial loss subsequent to the publication of the statement which is defamatory; or

(*b*) repeated defamatory statements by the defendant against the aggrieved party in separate publications which may evidence a presence of malice; or

(*c*) flagrant disregard for the truth through willful recklessness which gives rise to the defamatory statement.

(*4*) The court may also consider the following factors in mitigating damages which may be awarded—

(*a*) the potential of a chilling effect caused which may limit the ability of the publication or any of the defendants to ordinarily conduct business;

(*b*) the publication of any correction, retraction, or apology published by the defendant, and the nature, extent, form, manner, and time of that publication;

(*c*) any statement of explanation or rebuttal, or of both explanation and rebuttal, in relation to the matter that is the subject of the proceedings, and the nature, extent, form, manner, and time of that publication; and

(*d*) delay between the publication of the matter in respect of which the proceedings are brought and the decision of the court in those proceedings, being delay for which the plaintiff was responsible.

(*5*) In cases of damages which are claimed without specific evidence which is proved on direct and actual financial loss there shall be a limitation on damages in the following manner-

(*a*) the maximum amount of damages for such non-economic loss that may be awarded in defamation proceedings shall be such as may prescribed by the Central Government by notification in the Official Gazette that is applicable at the time damages are awarded.

Groundless threats of legal proceedings.

21. (*1*) When a person, by means of a notice or other mediums such as circulars, advertisements or by any other means threatens a person with an action or proceedings for defamation the recipient may institute suit against such person praying for the following reliefs:

(*a*) a declaration to the effect that the threats are unjustifiable;

(*b*) an injunction against the continuance of such threats; and

(*c*) such damages, if any, as may have been sustained thereby.

(*2*) A defendant in a suit under this section may prefer a counterclaim for defamation for any of the reliefs as provided under section 19 of this Act.

(*3*) Nothing in this section shall render an advocate or a legal practitioner liable to an action under this section in respect of an act done by him in his professional capacity on behalf of the client.

(*4*) A suit under this section shall not be instituted in any court inferior to a district court within whose local limits the notice or other mediums such as circulars, advertisements or through such other means the threats were received.

CHAPTER VII

MISCELLANEOUS PROVISIONS

Agreements for indemnity.

22. An agreement indemnifying any person against civil liability for defamation in respect of the publication of any statement shall not be unlawful unless at the time of making the statement that person knows that the matter is defamatory and does not reasonably belive there is a good defence to any action brought upon it.

Overriding effect.

23. (*1*) Notwithstanding anything contained in any law for the time being in force, any suit having a cause of action for defamation or praying for reliefs seeking monetary damages, declaration or injunction for defamation, with or without any connected and ancillary reliefs, shall be heard and decided in accordance with the provisions of this Act.

(*2*) In any suit for defamation there shall be no distinction between statements which are considered to be slander and liabel, which shall only and exclusively be governed by the provisions of this Act.

Amendment of certain enactments.

24. (*1*) The enactments specific in the Schedule are hereby amended to the extent and the manner mentioned in the fourth column thereof.

(*2*) The amendment of enactments shall not affect continuation of any legal proceeding pending in a court at the commencement of this Act and the proceedings may be continued in that court as if this Act had not been passed.

Power to make rules.

25. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

(*2*) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more succsessive sessions, and if, before the expiry of the session immediately following the session or the succssive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[*See* Section 24]

Year	No.	Short title	Extent of repeal
1860	45	The Indian Penal Code, 1860	Sections 499 to 502
1974	2	The Code of Criminal Procedure, 1973	Section 199

STATEMENT OF OBJECTS AND REASONS

The right to free speech, which is guaranteed under article 19(1)(a) of our Constitution, is an important aspect that ensures our democracy remains vibrant and ever evolving. However, it is important to also ensure that this right is not misused to damage the reputation of a person or entity. To ensure the existence of a healty social environment, there needs to be a fine legislative balance between free speech and the right to reputation.

The Protection of Speech and Reputation Bill attempts to repeal the substantive offence of defamation and its punishments. The larger aim of this Bill is to consolidate the common law relating to civil defamation and to comprehensively provide for the protection of speech and reputation as per the Constitution.

This Bill seeks to bring in simplified procedure to redress defamation complaints. Efforts are to make trial by subordinate judiciary as easy and simple as such a complex law could possibly be. It proposes to create a mandatory notice process, before a case is filed in court. This will ensure that the person who complains and the person against whom the complaint is made, can find ways of avoiding litigation. This would be one step towards promoting ease of doing business as companies would have an effective, quick remedy to protect their reputation on showing serious harm. The Bill also tries to address important issues with respect to territorial jurisdiction and damages awarded taking into consideration global best practices on defamation laws. The Bill proposes that all changes in defamation law, including the proposal for the decriminalization of defamation, should be applicable prospectively and should not apply to any pending proceedings.

The Indian Penal Code, 1860 states that defamation is a criminal offense. Criminal defamation is a law made one hundred and fifty years ago and preserved without substantial legislative change till date. This colonial enactment had the clear intent to curb liberty of a subject nation. A change in times should, ideally, lead to a change in law. There are frequent debates whether these restrictions are relevant in modern age. It is a lack of clarity on this that often leads to misuse of defamation laws by using them as a harassment tool. The ultimate result is that this restricts speech.

The Universal Declaration of Human Rights, adopted and proclaimed by United Nations General Assembly on 10th December,1948, guarantees the right to freedom of expression under article 19. If we look around the world, there is an emerging global trend to abolish criminal defamation. United Kingdom, the country that gave us the Indian Penal Code in its original form, has repealed criminality in its defamation law in 1996 and, in its place, passed a reasonable law in the year 2013.

India must march in tandem with the world and make an effort to keep up with times. There is an urgent need to reform our defamation law to ensure India has the required social environment for democracy and the economy to flourish.

Hence this Bill.

NEW DELHI;
October 27, 2016.

TATHAGATA SATPATHY

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 25 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 277 OF 2016

A Bill to provide for Constitution of a fund for the welfare of families of defence personnel who are killed by enemy or terrorist action or get seriously injured during such action.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Welfare of Families of Defence Personnel Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "defence personnel" means a person employed in army or air force or naval force or in any institution connected with defence of the country and under the Central Government and who is killed or sustains serious injuries resulting in permanent disability in any warlike situation or in a terrorist act.

(*b*) "dependant family member" means—

(*i*) spouse; or

(*ii*) son (including adopted sons); or

(*iii*) daughter (including adopted daughter); or

(*iv*) in case of unmarried defence personnel, brother or sister who was wholly dependant on the defence personnel; or

(*v*) parents, if the defence personnel was their only child.

(*c*) "Fund" means the Welfare of Families of Defence Personnel Fund constituted under section 3; and

(*d*) "prescribed" means prescribed by rules made under this Act.

Constitution of the Welfare of Families of the Defence Personnel Fund.

3. *(1)* The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the Welfare of Families of the Defence Personnel Fund with an initial of capital of rupees five thousand crore.

(2) There shall also be credited for the fund voluntary donations from the citizens.

Utilization of Fund.

4. The Fund shall be utilised for providing following facilities in such manner, as may be prescribed, to the defence personnel or their dependant family members—

(*i*) free housing facilities;

(*ii*) free education to the children of defence personnel;

(*iii*) free health care facilities;

(*iv*) payment of rupees twenty-five thousand per month to the defence personnel or his dependant family member, as the case may be, in addition to the pension or the family pension, as the case may be;

(*v*) loan facilities for self employment; and

(*vi*) payment of lump sum amount of rupees thirty-five lakhs to the dependant family member in case of death of the defence personnel and rupees ten lakhs to the defence personnel in case of serious injury.

Power to make rules.

5. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Our soldiers being the best in world defend the country with dedication, discipline and utmost commitment. In the recent years, it has been observed that many of our soldiers are killed mainly due to terrorist attacks or cross border violations. Sometimes they are killed in mine blast or cross fire. While martyred, the soldiers have umpteen times foiled terrorist plans of destruction.

In case of death or serious injury of defence personnel, their families remain in utter poverty. Although the Government is very liberal in giving compensation, yet it is not adequate keeping in view the rising inflation.

Therefore, as a tribute to our brave soldiers, there is an urgent need to provide some facilities to the dependant family members of defence personnel who are martyred or seriously injured.

Hence this Bill.

NEW DELHI;
October 28, 2016.

SHRIRANG APPA BARNE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of a Welfare of Families of the Defence Personnel Fund by the Central Government. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees Five Thousand Crore per annum would be involved from the Consolidated Fund of India.

No non-recurring expenditure will be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 263 OF 2016

A Bill further to amend the Cantonments Act, 2006.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Cantonments (Amendment) Act, 2016.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 12.

41 of 2006

2. In the Cantonments Act, 2006, in section 12, for sub-section (8), the following sub-section shall be substituted, namely:—

"(8). Every election or nomination of a member of a Board and every vacancy in the elected membership thereof shall be notified by the Central Government in the Official Gazette and every such notification shall contain, *mutatis mutandis*, all such provisions as are there in the notification to elect a member of the House of the People .".

STATEMENT OF OBJECTS AND REASONS

Although, elections are held regularly to fill up the vacancies arising in various Cantonment Boards, the elections are not as transparent as the General Elections. Therefore, it is proposed that elections to Cantonment Boards shall also be held in the same way as the General Election.

Hence this Bill.

NEW DELHI;
October 28, 2016.

SHRIRANG APPA BARNE

BILL NO. 262 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 16.

2. In article 16 of the Constitution, for clause (*4*), the following clause shall be substituted, namely:—

"(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class or economically backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

Explanation.— For the purpose of this clause, the expression 'economically backward class' means economically backward class as Parliament may, by law, determine."

STATEMENT OF OBJECTS AND REASONS

The reservation system, which came into force soon after coming into force of the Constitution, has paid rich dividends. The standard of life of the least privileged class of the society has been improved. In the recent years, there has been a great demand to protect the economically weaker section of the society as they do not get any sort of assistance or protection from the Government. This vulnerable chunk of society, which is in huge majority, is not enjoying fruits of the democracy or any scheme of the Government. They live in utter poverty and are in need of help from the Government.

Therefore, in order to bring a large chunk of the society in the national mainstream, it is proposed to reserve some posts or appointments in Government service in favour of persons belonging to the economically weaker section.

Hence this Bill.

NEW DELHI;
October 28, 2016

SHRIRANG APPA BARNE

BILL NO. 287 OF 2016

A Bill to provide for payment of pension to old age citizens.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Old Age Pension Act, 2016. Short title, extent and commencement.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*b*) "old person" means any person who has attained the age of fifty-five years; and

(*c*) "prescribed" means prescribed by rules made under this Act.

Pension to old age persons.

3. *(1)* Every old person Who is a citizen of India shall, on an application made in the prescribed form, be paid rupees five thousand per mensem as pension, by the appropriate Government.

(2) The pension payable shall be subject to such revision, on the basis of the prevailing cost of living index, as may be determined from time to time by the Central Government.

(3) The pension referred to in sub-section (*1*) shall be disbursed to old persons, by the appropriate Government through Government Treasury or such nationalized bank, as may be prescribed by the Central Government:

Provided that an old person who is receiving pension from the appropriate Government or who has some source of income which is more than the amount given under this Act shall not be eligible for pension under this Act.

Constitution of Old Persons Pension Fund.

4. *(1)* The Central Government shall constitute a Fund to be known as the Old Persons Pension Fund for carrying out the purposes of this Act.

(2) The Fund shall consist of the sums paid into it by the Central Government after due appropriation made by Parliament by law in this behalf and all such moneys received by way of grants or donations from any individual, organisation or agency including international agency.

Power to make rules.

5. *(1)* The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

India's social security system is woefully inadequate in comparison even to third world economies. Some States in India have social security schemes but the scale of benefits is modest. The Indira Gandhi Old Age Pension Scheme of the Central Government covers only old age persons living below poverty line. Moreover, the pension amount paid at the rate of rupees two hundred per month is a meagre amount to meet the bare need of food of pensioners. Today, we find that millions of senior citizens who do not have sufficient means or any support system have to lead a life full of hardships. These people, who are without any source of income, live in hunger and loneliness without anyone to take care of their needs. Ours is a welfare State. It is the foremost duty of the State to provide for a universal pension scheme for old age persons.

The Bill seeks to achieve the above objective.

Hence this Bill.

NEW DELHI;
October 28, 2016.

BHAIRON PRASAD MISHRA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the payment of pension at the rate of rupees five thousand per month to such old persons who have attained the age of fifty-five years or more. Clause 4 provides for the constitution of Old Persons Pension Fund by the Central Government. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. At this stage it is not possible to estimate as to how many old persons will need assistance from the Central Government. However, it is estimated that an annual recurring expenditure of about rupees five thousand crore is likely to be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 279 OF 2016

A Bill to provide for all-round development of children and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Child Development Act, 2016. Short title, extent and commencement.

(*2*) It extends to the whole of India

Definitions.

2. In this Act, unless the context otherwise requires,—

(*i*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*ii*) "child" means a person who has not attained the age of eighteen years; and

(*iii*) "prescribed" means prescribed by rules made under this Act.

Constitution of the Child Development Fund.

3. *(1)* The Central Government shall by notification in the Official Gazette, constitute a Fund to be known as the Child Development Fund.

(2) The Central Government and the State Governments shall contribute to the Fund in such proportion as may be prescribed.

(*3*) There shall also be credited to the Fund, donations or contributions received from other organisations or individuals.

Rights of a Child.

4. Every child shall have the right to—

(i) free education upto senior secondary level in all schools including Government aided private schools;

(ii) scholarship, in such cases as may be prescribed;

(iii) nutritious food, including mid-day meal in the schools;

(iv) free transport facilities between place of residence and the educational institutions;

(v) free bicycles, where there are no proper transport facilities;

(vi) free vocational training;

(vii) free access to the games and sports facilities;

(viii) free travel in railways for undertaking educational tour;

(ix) free healthcare facilities;

(x) insurance cover free of cost; and

(xi) physical fitness training.

Explanation.—For the purposes of clause (*i*), ''free education'' means education without payment of charges of fee of any kind and includes supply of books, stationery items and uniform, free of cost.

Appropriate Government to implement the Act.

5. It shall be the duty of appropriate Government to implement the provisions of this Act.

Power to make rules.

6. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Children are the future of a country. Majority of the children in our country do not have access to quality educational facilities and sports facilities due to lack of funds with their parents. In fact, their parents are so poor that sometimes they can't even afford a single square meal in a day. Consequently, due to the lack of proper nutrition and proper healthcare, these children become disease prone.

Moreover, in many rural areas children do not have any recreational facilities.

It is, therefore, necessary to bring a law providing basic educational facilities free of cost and access to sports facilities to every child to ensure all round development of his personality.

Hence this Bill.

NEW DELHI;
October 28, 2016.

BHAIRON PRASAD MISHRA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Child Development Fund, Clause 4 confers certain rights on children including free educational scholarship and free vocational training, etc. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees ten thousand crore per annum would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees twenty thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Act. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 313 OF 2016

A Bill to provide for constitution of special courts for the Scheduled Castes and the Scheduled Tribes in the country and for matters connected therewith.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Special Courts for the Scheduled Castes and the Scheduled Tribes Act, 2016.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires:—

(*a*) 'appropriate Government' means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*b*) 'offence' means any offence committed against a member of the Scheduled Castes and the Scheduled Tribes;

(*c*) 'prescribed' means prescribed by rules made under this Act;

(*d*) 'Scheduled Castes' means the castes included in the Constitution (Scheduled Castes) Order 1950;

(*e*) 'special court' means special court constituted under section 3; and

(*f*) 'Scheduled Tribes' means the tribes included in the Constitution (Scheduled Tribes) Order 1950.

Establishment of special courts for Scheduled Castes & Scheduled Tribes.

3. *(1)* The appropriate Government shall, by notification in the Official Gazettes, set up adequate number of special courts at district level to deal exclusively with matters arising out of crimes or offences committed against the Scheduled Castes and the Scheduled Tribes in the country.

(2) Every special court established under sub-section (1) shall be headed by a Chief Judge who shall be qualified to be appointed as District Judge and shall have such number of other Judges as the appropriate Government may prescribe keeping in view the Scheduled Castes and the Scheduled Tribes population in the district.

Qualification for appointment as Chief Judge and other Judges of special court.

4. The qualification and salary, allowances and other terms and conditions of service of the Chief Judge and other Judges shall be such as may be prescribed.

Senior most Judge to act as a Chief Judge or to discharge his functions in certain circumstances.

5. (*1*) In the event of occurrence of any vacancy in the office of the Chief Judge by reason of his death, resignation or otherwise, the senior most judge of that court shall discharge his functions until a new Chief Judge, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(*2*) When the Chief Judge is unable to discharge his functions owing to his absence from duty due to any reason, the senior most judge of that special court shall discharge functions of the Chief Judge until the Chief Judge resumes his duties.

Financial and other powers of the Chief Judge.

6. Every Chief Judge shall exercise such financial and administrative powers as may be vested in him in such manner as may be prescribed.

Staff of the special court.

7. The appropriate Government shall appoint sufficient number of officers and staff to assist the special court in the discharge of its functions on such terms and conditions of service as may be prescribed.

Jurisdiction power and authority of special courts.

8. Save as otherwise expressly provided in this Act, every special court shall exercise all the jurisdiction, powers and authority exercisable immediately before that day by all courts except the concerned High Court and the Supreme Court in relation to all matters, offences or atrocities committed, against the Scheduled Castes and the Scheduled Tribes under the Indian Penal Code, 1860 or any other law for the time being in force in relation to Scheduled Castes and Scheduled Tribes. 45 of 1860.

Transfer of pending cases.

9. Every case or other proceedings relating to the Scheduled Castes and the Scheduled Tribes pending before any other court or any authority shall stand transferred to such special court on the commencement of this Act:

Provided that nothing contained in this section shall apply to a case or other proceedings pending in a High Court or the Supreme Court.

Free legal aid to Scheduled Castes and Scheduled Tribes.

10. The appropriate Government shall provide free legal aid to the Scheduled Castes and the Scheduled Tribes for meeting the cost of litigation in special court.

Disposal of cases by special courts.

11. Every case in a special court shall be disposed of as early as possible and in any case not later than one year from the date of filing the case in the court.

Power to make rules.

12. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) Every rule under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agrees in making any modification in the rule or Parliament agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modifications or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Scheduled Castes and the Scheduled Tribes still continue to be the oppressed classes of our society. They have suffered for centuries. Although with the institution of the democratic form of government in the country, many steps have been taken to improve their status in the society yet this change is limited only in the urban areas. In the rural areas, the position at some places, is still the same as it used to be many years ago. They have never received justice from the persons who were at the helm of affairs of their fate. In a welfare state like ours it is a bounden duty of the state to ensure that the members of the Scheduled Castes and the Scheduled Tribes receive speedy justice at their door steps. These classes are unable to fight long litigations in the normal courts. In view of their financial position they also need free legal aid for meeting the cost of litigation. In view of their disadvantageous position in the society, especially at district level in the rural areas, there is an urgent need that a separate and parallel system of justice for the Scheduled Castes and the Scheduled Tribes should be established.

It is, therefore, proposed that special courts at district level may be established for the Scheduled Castes and the Scheduled Tribes in the country.

Hence this Bill.

NEW DELHI;
November 3, 2016.

OM PRAKASH YADAV

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that Government and Union territory Administration shall set up sufficient number of special courts to deal exclusively with matters arising out of atrocities committed against Scheduled Castes and Scheduled Tribes. Clause 4 provides for payment of salaries and allowances to the Chief Judge and other Judges. Clause 7 provides for appointment of officers and staff required for special courts. Clause 10 provides for free legal aid to Scheduled Castes and Scheduled Tribes. The expenditure in respect of special courts for Union territories shall be met out of the Consolidated Fund of India. It is likely that an amount of rupees one thousand crore will be involved for setting up special courts in Union territories per annum.

A non-recurring expenditure of about rupees two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 298 OF 2016

A Bill to prevent atrocities against women in the country, to specify Special Courts for the trial of offences committed against women and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Prevention of Atrocities on Women Act, 2016.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of State, the Government of that State and in all other cases the Central Government;

(*b*) "atrocity" means an offence punishable under section 3;

(*c*) "Code" means the Code of Criminal Procedure, 1973;

(*d*) "employer" means,—

(*i*) in relation to an establishment under the control of the appropriate Government, the head of the Department or Ministry, as the case may be;

(*ii*) in relation to an establishment under any local authority or Local Self Government, the Chief Executive Officer by whatever designation called; and

(*iii*) in relation to other cases, the person or the authority who has the ultimate control over the affairs of the work place.

(*e*) "Special Court"means a Court of Session specified as a Special Court under section 7; and

(*f*) words and expressions used but not defined in this Act and defined in Code or the Indian Penal Code shall have the meanings assigned to them respectively in the Code, or, in the Indian Penal Code, 1980, as the case may be.

Punishment for Offences of atrocities.

3. (*1*) Whoever,—

(*i*) makes any lewd remarks, gestures, signs or insinuations against a woman in office or in any public place;

(*ii*) assaults or uses force against any woman with intent to dishonour or outrage her modesty;

(*iii*) forcibly removes clothes from the person of a woman or parades her naked or with painted face or body or commits any similar act which is derogatory to human dignity;

(*iv*) compels or entices a woman to do '*begar*' or other similar forms of forced or bonded labour;

(*v*) being in a position to dominate the will of a woman and uses that position to harass or exploit her sexually, to which she would not have otherwise agreed;

(*vi*) intentionally insults or intimidates with intent to humiliate a woman in any place within public view;

(*vii*) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a woman;

(*viii*) takes pictures or video of a woman without her consent or knowledge, violating her privacy;

(*ix*) forces or compels any woman into prostitution;

(*x*) declares any woman witch or daiyan or by any other name called;

shall be punishable with imprisonment for a term which shall not be less than two years but which may extend upto five years and with fine which may extend upto twenty-five thousand rupees.

(*2*) Whoever, being a public servant, commits any offence punishable under this section, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend upto the maximum punishment provided for that offence.

Punishment for neglect of duties.

4. Whoever, being a public servant, willfully neglects his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend upto one year.

Special Court.

5. For the purposes of providing speedy trial, the appropriate Government shall, with the concurrence of the Chief Justice of High Court, by notification in the Official Gazette, specify for each district a Court of Sessions to be a Special Court to try offences under this Act.

Procedure to be followed by Special Court.

6. (*1*) Where the Special Court is satisfied, upon a compliant or a police report that a person is likely to commit an offence under this Act, it may, by order in writing, direct such person to remove himself beyond the limits of such area, within such time as may be specified in the order, and not to return to that area from which he was directed to remove himself for such period, not exceeding one year, as may be specified in the order.

(*2*) The Special Court shall, along with the order under sub-section (*1*), communicate to the person directed under that sub-section the grounds on which such order has been made.

(*3*) The Special Court may revoke or modify the order made under sub-section (*1*), for the reasons to be recorded, on the representation made by the person against whom such order hass been made or by any other person on his behalf within thirty days from the date of the order.

Punishment for contravention of Order of Special Court.

7. Whoever, contravenes an order of the Special Court made under section 6 shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend upto ten thousand rupees.

Declaration of area prone to atrocities.

8. A District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of a Deputy Superintendent of Police may, on receiving information and after such inquiry as he may think necessary, has reason to believe that a person or a group of persons, residing in or frequenting any place within the local limits of his jurisdiction is likely to commit an offence or has threatened to commit any offence under this Act and is of the opinion that there is sufficient ground for proceeding, declare such an area to be an area prone to atrocities and take preventive action in such manner as may be prescribed.

Appropriate Government to frame scheme.

9. *(1)* The appropriate Government shall provide such relief and rehabilitation to the victims of the atrocities under this Act by framing schemes as may be notified, from time to time.

(2) Without prejudice to the generality of the aforesaid provision, the appropriate Government shall provide free board and lodging and medical facilities to the severely affected victims of atrocities under this Act.

Central Government to provide funds.

10. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for being utilised for the purposes of this Act.

Power to remove difficulty.

11. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of this Act.

Protection of action taken in good faith.

12. No suit, prosecution or other legal proceeding shall lie against the Central Government or against the State Government or any officer or authority of Government or any other persons for anything which is in good faith done or intended to be done under this Act.

Act to have overriding effect.

13. Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any other law.

Power to make rules.

14. (*1*) The Central Government may, by notification in this Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Women are the most vulnerable lot of our society. Every now and then, women are subjected to atrocities and violence in one form or the other. They are subjected to all kinds of torture which more often than not go unreported. At times, the administration does not respond with the kind of agility that is required on the incidents of atrocities on women. There is no dearth of incidents when women are paraded naked in many places in our country and, at time, also declared as witches or daiyans. This is the worst kind of treatment given to women without any fault. They are left at the mercy of their fate and no one comes to their rescue. Further, sexual harassment of women in work place is also very common and frequent. The Supreme Court of India has taken this issue very seriously. In the case of *Vishaka and Others Vs. State of Rajasthan and Others* [1997 (7) Sec. 323] the Supreme Court has laid down norms and guidelines to be followed by employers or other responsible persons in the work places or other institutions to prevent or deter the commission of acts of sexual harassment and also to provide the procedures for resolution, settlement or prosecution of acts of sexual harassment by taking all steps required including setting up of Complaints Committees for redressal of the complaint made by the victim pending the enactment of suitable legislative. The National Commission for Women had also taken up this issue very seriously. It was, however been found that the Compliant Committees were not formed in a number of cases. Women are continued to be mentally and sexually exploited and pushed into flesh trade. In, 2013, the Government enacted a legislation namely the Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013 in order to provide protection against Sexual Harassment of Woman at Work Place and for the prevention and redressal of complaint of sexual harassment etc. There is however, a need for strict punishment which will serve as deterrent for others and also special courts for expeditious trial of those accused of offences committed against women.

Hence this Bill.

NEW DELHI;
November 3, 2016.

OM PRAKASH YADAV

FINANCIAL MEMORANDUM

Clause 9 of the Bill provides that the appropriate Government shall provide relief and rehabilitation including free boarding, lodging and medical facilities to the women and children who are victims of atrocities. Clause 10 of the Bill provides that the Central Government shall provide requisite funds for the purposes of this Bill. The expenditure relating to States shall be borne out of the Consolidated Funds of the State Government concerned. The expenditure relating to Union territories shall be borne out of the Consolidated Fund of India. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees twenty crore per annum would involve from the Consolidated Fund of India. A Non-recurring expenditure to the tune of rupees one crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to the matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 308 OF 2016

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Representation of the People (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Interpretation.

2. In section 2 of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in sub-section (*1*),— 43 of 1951.

(*a*) after clause (*bb*), the following clause shall be inserted, namely:—

'(*bc*) "constituency" means the Parliamentary constituency or the Assembly constituency, as the case may be;';

(*b*) after clause (*e*), the following clause shall be inserted:—

'(*ea*) "member" in reference to PART VB means member of the House of the People or the Legislative Assembly of a State, as the case may be;';

(*c*) after clause (*h*), the following clause shall be inserted:—

'(*ha*) "recall petition" means a petition calling for vacation of seat of a Member of Parliament of the House of the People or the Legislative Assembly of a State, as the case may be;'; and

(*d*) after clause (*i*), the following clause shall be inserted:—

'(*ia*) "Speaker" means the Speaker of the House of the People or the Legislative Assembly of a State, as the case may be;', and

Insertion of new Part VB.

3. After PART VA of the principal Act, the following PART and sections thereunder shall be inserted, namely:—

"PART VB

Recall of Representatives

Initiation of the recall process for a member.

78C. (*1*) Any elector of a particular constituency, may, if not satisfied with the performance of elected member of that constituency, file a recall petition, signed by not less than one-fourth of the total number of electors of that constituency, with the Speaker in such manner as may be prescribed.

(*2*) Subject to the provisions of sub-section (*1*), no process of recall of a member shall be initiated—

(*i*) within a period of two years from the date of election of that member; or

(*ii*) if that member was elected in a bye-election and one-half of the period of tenure of such member has not expired; or

(*iii*) before the expiry of a period of six months from the date of submission of an earlier recall petition; or

(*iv*) within a period of six months prior to the polling day for the next general election for the purpose of constituting a new House of the People or a new State Legislative Assembly, as the case may be; or

(*v*) if that member is already subject to a recall petition process.

Explanation.—For the purpose of this section, the expression "member is already subject to a recall petition process" means the period beginning with the reference of the recall petition by the Speaker to the Election Commission and ending with the notification by the Speaker of the outcome of the petition.

Verification of signatures in recall petition.

78D. (*1*) The Speaker shall, as soon as possible, after confirming the genuineness of the recall petition filed under section 78C refer the recall petition to the Election Commission for verification and signing by electors of the constituency from where the member whose recall petition has been filed got elected.

Explanation.—For the purpose of this section, it is clarified that the Speaker shall not entail a review of the merit of the recall petition or decide as to whether that member should be recalled but shall instead limit his review to decide whether the petition has been filed by an eligible person, whether it bears the requisite number of signatures and whether it sets out in detail reasons for recall of the member and that the recall petition is not *prima facie* frivolous.

(*2*) The Election Commission shall, on receipt of recall petition from the Speaker, initiate the verification process for authentication of the signatures on the recall petition in such manner as may be prescribed:

Provided that the verification process for authentication of signatures shall be completed within a period of ninety days from the date of receipt of the recall petition from the Speaker.

Chief Petition Officer and other employees.

78E. (*1*) The Election Commission shall, if safisfied about the genuineness of signatures on the recall petition, designate one of its officials to be Chief Petition Officer in relation to that recall petition.

(*2*) The Chief Petition Officer shall be responsible for the conduct of the recall petition.

(*3*) The Election Commission shall provide the Chief Petition Officer such number of employees and funds as may be necessary for the conduct of recall petition.

Procedure for signing recall petition.

78F. (*1*) The Chief Petition Officer shall, within ten days of the receipt of recall petition, specify—

(*a*) a place or places where the recall petition shall be made available for signing by the electors; and

(*b*) the days on which the recall petition shall be made available for signing to the electors:

Provided that the Chief Petition Officer shall not specify more than ten places within the constituency for signing the recall petition:

Provided further that, in extraordinary circumstances, the Chief Petition Officer may specify more than ten places within the constituency for signing the recall petition after presenting in writing detailed reasons thereof to the Election Commission and the Speaker:

Provided also that in specifying the number of places where the recall petition shall be made available, due consideration shall be given to the size and population of the constituency in respect of whose member, the recall petition has been filed.

(*2*) The Chief Petition Officer, while specifying the place or places under clause (*a*) of sub-section (*1*), shall ensure that—

(*a*) all electors entitled to sign the recall petition have such reasonable facilities for signing it as are practicable in the circumstances; and

(*b*) as far as practicable, every place where the recall petition is made available for signing is accessible to persons with disabilities.

Notice of signing on the petition.

78G. (*1*) The Chief Petition Officer shall, within a period of ten days after specifying the places and the days under sub-section (*1*) of section 78F,—

(a) issue a public notice containing details of the designated places and days on which every elector eligible to vote in the constituency may sign on recall petition;

(b) cause such notice to be printed in all the leading newspapers circulated in the constituency; and

(c) cause such notice to be put up on the notice board of all the Courts, Government offices and institutions in the constituency.

Persons eligible to sign recall petition.

78H. Every elector of the constituency, in respect of whose member the recall petition has been filed, shall be eligible to sign the recall petition.

Manner of signing the recall petition.

78I. (*1*) Every recall petition shall be signed by means of electronic voting machines.

(*2*) For the purposes of this Act, every voting on recall petition by electronic voting machines shall be deemed to be a signature of an elector on the recall petition.

Counting of signatures and declaration of result.

78J. (*1*) The Chief Petition Officer shall, within a period of not more than fifteen days after the end of the signing period, cause the signatures to be counted and forward the result of counting to the Speaker.

(*2*) A recall petition of a member shall be deemed to be a successful recall petition for the purposes of this Act, if it is signed under section 781 by electors whose number is not less than three-fourth of the member of valid votes which that member was polled in his election.

(*3*) The Speaker shall, within twenty-four hours of the receipt of the result of counting under sub-section (*2*), notify the result to the general public in such manner as may be prescribed.

Vacation of seat upon recall.

78K. The member, in respect of whom the recall petition was filed, upon notification of the successful recall petition under sub-section (*3*) of section 78J, shall be deemed to have vacated his seat in the House of the People or Legislative Assembly of a State, as the case may be.

Conduct of a bye-election.

78L. When as a result of a successful recall petition, a seat in the House of the People or the Legislative Assembly of a State, as the case may be, is duly vacated under section 78K, the Election Commission shall cause a bye-election to be held to fill the vacant seat in such manner as may be prescribed.

Penalties.

78M. Whoever,—

(*a*) tampers with or forges any of the signatures including on the initial recall petition submitted to the Speaker; or

(*b*) signs the same recall petition more than once; or

(*c*) either directly or through an agent, gives bribe by way of gift, offer or promise any gratification to any person with a view to directly or indirectly induce such person to sign or refrain from signing a recall petition; or

(*d*) receives, either directly or through an agent, by way of gift, offer or promise any gratification, either himself or through an agent , from any person in respect for signing or refraining from signing a recall petition,

shall be punishable with imprisonment for a term which may extend upto five years or with a fine which may extend upto rupees ten lakh or with both.

Explanation:—For the purposes of this section the term "gratification" shall not be restricted to pecuniary gratifications or gratifications estimable in money and shall include all forms of entertainment and all forms of employment for reward.".

STATEMENT OF OBJECTS AND REASONS

True democracy envisages a government that is of the people, for the people and by the people. Unfortunately oftentimes, in a first past the post system not every elected representative truly enjoys the mandate of the people. Logic and justice necessitate that if the people have the power to elect their representatives, they should also have the power to remove these representatives when they engage in misdeeds or fail to fulfil their duties.

At present there exists no recourse to the electorate if they are unhappy with their elected representative. The Representation of the People Act, 1951 only provides for vacation of office upon the commission of certain offences and does not account for general incompetence of the representatives or dissatisfaction of the electorate as a ground for vacation.

Countries all over the world have experimented with the concept of Right to Recall. The system exists at the State level in many States of the United States and at the Cantonal Level in Switzerland as well as at the national level in Venezuela. In India too attempts have been made at the local level to incorporate recall provisions in the cases of mayors, sarpanchs and other local government officials in certain states.

Whereas it is necessary to ensure that a recall process is not frivolous and does not became a source of harassment to elected representatives by preventing them from exercising their duties, the process for recall has several safeguards incorporated in it such as an initial recall petition to kick start the process and electronic based voting to finally decide its outcome.

The Bill provides for verification of signatures and first review by the Speaker of the concerned House. Furthermore, to ensure that a representative cannot be recalled by a small margin of voters and that the recall procedure truly represents the mandate of the people, the threshold for success of a recall petition is accordingly high. To ensure transparency and independence, Chief Petition Officers from within the election commission have been designated to supervise and execute the process. Furthermore, the Bill, recognizing the potential for abuse of certain provisions has accordingly provided more than adequate punishment for such abuses.

A free and fair election is right of the citizens of the country and in the event that their elected representatives no longer enjoy the confidence of the people, the people must have a right to remove them. It is on this edifice of accountability of politicians that the true idea of democracy can be achieved.

Hence this Bill

NEW DELHI;
November 3, 2016.

FEROZE VARUN GANDHI

FINANCIAL MEMORANDUM

Clause 3 of the Bill *vide* proposed section 78E(3) provides that Election Commission shall provide the Chief Petition Officer with such number of employees and funds as may be necessary for the conduct of recall petition. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. As the expenditure to be incurred would depend upon the number of recall petitions filed, it is not possible at this stage to give the exact amount of recurring expenditure which would be involved out of the Consolidated Fund of India.

No non-recurring expenditure is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill *vide* proposed section 78C provides that any elector may file a recall petition with the speaker in such manner as may be prescribed. The proposed section 78D empowers the Election Commission to initiate verification process for authentication of signatures on the recall petition in such manner as may be prescribed. The proposed section 78J empowers the Speaker to notify the result of counting of signatures on recall petition within 24 hours of the receipt of result in such manner as may be prescribed. The proposed section 78K empowers the Election Commission to hold a bye-election to fill the vacant seat on a successful recall petition in such manner as may be prescribed. As the rules with relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 309 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 124.

2. In article 124 of the Constitution:—

(*a*) in clause (*2*),—

(*i*) for the words "on the recommendation of the National Judicial Appointments Commission referred to in article 124A", the words "after consultation with the Chief Justice of India and four senior most Judges of the Supreme Court" shall be substituted; and

(*ii*) after the proviso, the following Explanation shall be added at the end, namely:—

"*Explanation*.—In this clause, 'consultation' means taking opinion or views in a merely advisory manner without any compulsion to act in accordance with the advice tendered during the course of such consultation.";

(*b*) the existing clause (2A) shall be renumbered as clause (2B) and before clause (2B) as so renumbered, the following clause shall be inserted, namely:—

"(2A) The appointment of the Chief Justice of India shall be made on the basis of seniority.".

Omission of articles 124A, 124B and 124C.

3. Article 124A, 124B and 124C shall be omitted.

Amendment of article 217.

4. In article 217 of the Constitution, in clause (*1*),—

(*a*) for the words "Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal on the recommendation of the National Judicial Appointments Commission referred to in article 124A", the words "Every Judge of a High Court, including the Chief Justice, shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, two senior most Judges of the Supreme Court, the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court" shall be substituted; and

(*b*) after the proviso, the following Explanation shall be added at the end, namely:—

"*Explanation*.—In this clause, 'consultation' means taking opinion or views in a merely advisory manner without any compulsion to act in accordance with the advice tendered during the course of such consultation.".

STATEMENT OF OBJECTS AND REASONS

The Indian Constitution aims to establish an independent judiciary; for the judiciary entrusted with the power of judicial review cannot perform its functions without any fear or favour unless it is kept outside realm of control of the executive and the legislature. Towards this end, the Constitution, as originally enacted, provided that the appointment of judges to the Supreme Court and the High Courts shall be made by the President through a consultative process in which, *inter alia*, the Chief Justice of India and, in case of appointment of a judge to a High Court, the Chief Justice of that High Court shall be consulted. What the Constitution envisaged, therefore, was essentially a participatory consultative process for selecting the best and most suitable persons for appointment to the higher judiciary. It was so held by the Supreme Court in S.P. Gupta *vs.* Union of India (1982).

However, the constitutional provisions regarding appointment to the higher judiciary were almost rewritten by the Supreme Court in Supreme Court Advocates-on-Record *Vs.* Union of India (1993), where the Court held that in case of any conflict, the opinion of the Chief Justice of India, formed after consulting two senior most judges of the Supreme Court, shall have primacy over the others and no appointment can be made unless it is in conformity with the opinion of the Chief Justice of India as 'consultation' under articles 124 and 217 means 'concurrence'.

The scope of consultation with the Chief Justice of India was further widened by the Supreme Court in its opinion in Presidential Reference under article 143 in 1998. The Court held that the Chief Justice was required to consult, in case of appointment to the Supreme Court, a collegium of four senior most judges of the Supreme Court, and in case of appointment to the High Courts, two senior most judges of the Supreme Court and among others, the Chief Justice of the concerned High Court and other judges of the Supreme Court and the High Court.

The balance between the authority of the executive and the judiciary was sought to be restored by the Constitution (Ninety-ninth Amendment) Act, 2014, which ushered in the mechanism of National Judicial Appointments Commission to make appointments to the higher judiciary. The amendment was, however, struck down by the Supreme Court in Supreme Court Advocates-on-Record *Vs.* Union of India (2015). Thus, the collegium system has been restored, though the court held that "the present Collegium system lacks transparency, accountability and objectivity".

Amid a situation where the balance of power has been tilted in favour of the judiciary *vis-a-vis* judicial appointments, it would be wise to recollect what Dr. B.R. Ambedkar had said during debates in the Constituent Assembly on 24th May, 1949:—

> ".....it would be dangerous to leave the appointments to be made by the President, without any kind of reservation or limitation, that is to say, merely on the advice of the executive of the day..... and I think, to allow the Chief Justice practically a veto upon the appointment of judges is really to transfer the authority to the Chief Justice which we are not prepared to vest in the President or the Government of the day. I, therefore, think that is also a dangerous proposition. ....."

It would, therefore, be prudent to accept a middle path where both the institutions, namely the executive and judiciary, are able to remove the imperfections in the decision making of the other in the matters of appointment to higher judiciary.

With the above objectives in view, the Bill seeks to amend the Constitution with a view to provide that while the President has to consult the Chief Justice of India and other Judges of the Supreme Court and the Chief Justice of the High Court in case of appointment of the Judge of the Supreme Court or the High Court, as the case may be, the President shall not be under compulsion to act according to the advice tendered after such consultation.

Hence this Bill.

NEW DELHI;
November 4, 2016.

BHARTRUHARI MAHTAB

BILL NO. 318 OF 2016

A Bill to provide for constitution of special courts for trial of cases of offences of sexual violence against women in order to ensure speedy disposal of such cases and for matters connected therewith.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Special Courts for Trial of Offences Against Women Act, 2016.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the State Government and in all other cases, the Central Government;

(*b*) "prescribed" means prescribed by rules made under this Act;

(*c*) "sexual violence" refers to offences referred to in sections 292, 354, 354A, 354B, 354C, 354D, 375, 376, 376A, 376B, 376C, 376D, 376E and 509 of Indian Penal Code, 1860; and

45 of 1860.

(*d*) "special court" means a Court constituted under section 3 to exclusively try cases of offences of sexual violence against women.

Constitution of special courts.

3. The appropriate Government shall, within six months of the coming into force of this Act, constitute in every district a special court to exclusively try cases of sexual violence.

Selection criteria for appointment of Judges.

4. The selection criteria for appointment of Judges in the special courts and the term of office and other conditions of service of such Judges shall be such as the appropriate Government may, in consultation with High Court, specify.

Number of Judges in special courts.

5. The number of Judges to be appointed in any special court shall be such as the High Court may, in consultation with State Government, specify, after taking into consideration the backlog of cases of sexual violence in that special court.

Transfer of pending cases.

6. Every case or other proceeding relating to offences of sexual violence pending before any court or other authority immediately before the date of constitution of a special court under this Act shall stand transferred on that date to the special court of appropriate jurisdiction:

Provided that nothing in this section shall apply to any appeal pending as aforesaid before a High Court.

Law students to assist special courts.

7. *(1)* The appropriate Government shall coordinate with the National Law Universities and other Law colleges in the State in order to allow final year law students to intern at the special courts.

(2) The law students, as intern, shall assist in disposal of cases, other than cases under sections 375, 376, 376A, 376B, 376C, 376D and 376E of the Indian Penal code, 1860, being tried in special courts, in such manner, as may be prescribed.

45 of 1860.

Time limits for filing of charge sheet.

8. (*1*) The charge sheet of offence of sexual violence shall be filed within such period, not exceeding thirty days, as the appropriate Government may specify:

Provided that in case of delay in filing the charge sheet, the Investigating Officer shall submit before the special court the reasons of such delay.

(*2*) Where the delay in filing charge sheet is caused due to negligence on the part of the Investigating Officer or some other person, such Investigating Officer or that person shall be punished with simple imprisonment which may extend upto six months or with fine or with both.

Time limit for deciding cases by special court.

9. The special court shall decide the case of sexual violence within such period, not exceeding one hundred and twenty days from the date of filing of charge sheet, as the appropriate Government may specify.

Appeal in High Court.

10. Any person aggrieved by the order of the special court may file an appeal to the High Court within sixty days from the date of order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Increasing awareness.

11. The appropriate Government shall take such measures, as may be prescribed, to increase awareness amongst women about the legal safeguards against, and the legal provisions relating to, eve-teasing and sexual violence.

Central Government to provide adequate funds.

12. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds for the implementation of the provisions of the Act.

Overriding effect of the Act.

13. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act not to be in derogation of other Laws.

14. The provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force, regulating any of the matters dealt with in this Act.

Power to make rules.

15. (*1*) The Central Government may by notification in the Official Gazette make rules for carrying out the provisions of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

In Madheshwardhari Singh and Anr., *Vs.* State of Bihar 1986, the Supreme Court upheld the right to speedy trial as a fundamental right. But not much progress has been achieved by the courts in disposing civil and criminal cases. The total number of pending cases in High Courts and subordinate courts, by the end of 2014, was more than three crore. Of these pending cases, 9.2% are pending for more than ten years.

The main reasons for pendency of cases are vacancies, inadeqauate judge strength, lack of physical infrastructure and large influx of new cases into Courts. According to the data collected by the National Crime Records Bureau, as many as 3,37,922 cases of crimes against women were registered in 2014. This is an increase of 9.2% from the registered crimes against women in 2013. Crimes committed under the Indian Penal Code (IPC) against women, as proportion of total crimes, have increased to 11.4% in 2014.

The voluminous nature of pending cases and the resultant delay in the delivery of justice to the victims encourage criminals to commit crimes. Criminal justice system as a mechanism to check the crime rate has been rendered ineffective due to time lags in disposal of cases.

One way to tackle the problem is to have special courts dealing with cases of crimes against women. After the Delhi gang rape case of 2012, the Union Law ministry directed the States to set up fast track Courts to deal with such crimes against women. Despite such efforts, backlog of cases continues to persist.

This Bill aims to define the role and responsibilities of these Fast Track Courts to augment them in their functioning. Its objective is enable women victims to realise their right to speedy delivery of justice.

Hence this Bill.

NEW DELHI; SUPRIYA SULE

October 10, 2016.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of special courts at the district level. Clause 5 provides for appointment of judges in special courts. Clause 7 provides that law students, as intern, shall assist in disposal of certain type of cases in special courts. Clause 11 provides that the appropriate Government shall take measures to create awareness amongst women about the legal safeguards and provisions relating to eve-teasing and sexual violence. Clause 12 provides that the Central Government shall provide adequate funds to the State Government for effective implementation of this Act. The expenditure in respect of special courts in Union territories shall be met out of the Consolidated Fund of India and the expenditure in respect of special courts in States will be met out of the Consolidated Fund of the respective States. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two thousand crore would be involved as recurring expenditure per annum.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 302 OF 2016

A Bill to provide free and compulsory secondary and senior secondary education to all children and for matters connected therewith.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Free and Compulsory Secondary and Senior Secondary Education Act, 2016.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the State Government in the case of a Union territory with Legislature, the Government of the Union territory and in all other cases, the Central Government;

(*b*) "local authority" means the Municipal Corporation or Municipal Council or Nagar Panchayat or Zila Parishad or any Urban Local Body or authority empowered by or under any law for the time being in force to function as a local authority in any city, town or village having administrative control over the school;

(*c*) "child" means male or female who has not attained the age of eighteen years;

(*d*) "secondary education" means education in ninth and tenth classes;

(*e*) "senior secondary education" means education in eleventh and twelfth classes;

(*f*) "parent" means biological or adoptive mother or father of a child;

(*g*) "guardian" means a person having custody of the child;

(*h*) "school" means any recognised institution imparting secondary or senior secondary education, and includes schools aided or unaided by the appropriate Government and minority schools;

(*i*) "prescribed" means as prescribed by the rules made under this Act; and

(*j*) "notification" means a notification published in the Official Gazette.

Appropriate Government to provide free and compulsory secondary and senior secondary education.

3. The appropriate Government shall provide free and compulsory secondary and senior secondary education to every child.

Explanation.—For the purpose of this section, "free education" includes:—

(a) school fees and admission charges, if any;

(b) textbooks and stationery materials free of cost;

(c) mid-day meal to secondary and senior secondary students; and

(d) free hostel facilities wherever necessary.

Appropriate Government to establish schools.

4. The appropriate Government shall establish adequate number of schools within its territorial jurisdiction for imparting free secondary and senior secondary education to every child.

Responsibility of the parent and guardian.

5. (*1*) Notwithstanding any custom, usage or belief of any section of the society, every parent or guardian shall compulsorily admit his child in a school.

(*2*) No person including a parent or guardian shall prevent a child from completing his secondary and senior secondary education:

Provided that in case a child either due to late admission in a school or slow learning capabilities does not complete senior secondary education by eighteen years of age, the appropriate Government shall provide free education to such child, even after he attains the age of eighteen years.

Central Government to provide requisite funds.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds to the State Governments for carrying out the purposes of this Act.

Penalty.

7. Any person including parent or guardian who violates the provisions of this Act, shall be punished with an imprisonment for a term which may extend upto one year and shall also be liable to fine.

Overriding effect of the Act.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in any instrument having effect by virtue of any law other than this Act.

Act to be in addition to other laws.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

10. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Education is instrumental for child's overall development. Social welfare of a child also depends on the early school level education one receives.

Besides educating the child, the education also promotes the economic welfare of a nation as it makes the future workforce of the nation more productive. Economic theory predicts that India is experiencing demographic dividend, a phenomenon where proportion of working population (aged between eighteen and sixty years) to total population is more than that of the dependent population (age groups of below eighteen and above sixty years). India can reap benefits from this relatively younger workforce, if it educates and skills them to be more productive.

Recognising the importance of education to children, Central Government enacted Right of Children to Free and Compulsory Education Act in 2009, which made elementary education (class I to class VIII) free and compulsory to all children below 14 years of age. Though this Act is laudable, it fails to address the issue of continuation of a child's education beyond the elementary level.

To improve the access to secondary and senior secondary education, the Central Government introduced various schemes. Rashtriya Madhyamika Siksha Abhiyan was introduced in 2009 with the objective of achieving full enrolment in secondary education by 2017 and full retention of the children thus enrolled, by 2020.

But there is no legal framework in India that guarantees secondary and senior secondary education. The Bill, therefore, aims to fill this policy gap and extend free and compulsory secondary and senior secondary education to all children below eighteen years of age.

Hence this Bill.

NEW DELHI; SUPRIYA SULE

November 4, 2016.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for free and compulsory secondary and senior secondary education to all children. Clause 4 provides for establishment of adequate number of schools for imparting secondary and senior secondary education. Clause 6 provides that Central Government shall provide adequate funds to the State Governments for carrying out the purposes of this Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five thousand crore would be involved as recurring expenditure per annum from the Consolidated Fund of India.

Non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 303 OF 2016

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called Indian Penal Code (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 292.

2. In section 292 of the Indian Penal Code, 1860 (hereinafter referred to as the Code), in sub-section (*2*), for the words, "shall be punished on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to two thousand rupees, and in the event of a second or subsequent conviction, with 45 of 1860.

imprisonment of either description for a term which may extend to five years and also with fine which may extend to five thousand rupees", the words "shall be punished on first conviction with imprisonment of either description for a term which may extend to five years, and with fine which may extend to five thousand rupees, and in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten thousand rupees" shall be substituted.

Amendment of section 354.

3. In section 354 of the Code, for the words "shall be punished with imprisonment of either disruption for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine", the words "shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine" shall be substituted.

Amendment of section 354A.

4. In section 354A of the Code,—

(*a*) in sub-section (*2*), for the words "shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both", the words "shall be punished with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine" shall be substituted; and

(*b*) in sub-section (*3*), for the words "shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both", the words "shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine" shall be substituted.

Amendment of section 354B.

5. In section 354B of the Code, for the words "shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine", the words "shall be punished with imprisonment of either description for a term which shall not be less than eight years but which may extend to ten years, and shall also be liable to fine" shall be substituted.

Amendment of section 354C.

6. In section 354C of the Code, for the words "shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine", the words "shall be punished on first conviction with imprisonment of either description for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than six years, but which may extend to eight years, and shall also be liable to fine" shall be substituted.

Amendment of section 354D.

7. In section 354D of the Code, for sub-section (2), the following sub-section shall be substituted, namely:—

"(*2*) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.".

Insertion of new section 354E.

8. After section 354D of the Code, the following section shall be inserted, namely:

Eve teasing.

"354E. Any act punishable under sections 292, 354, 354A, 354B, 354C, 354D or 509 shall be deemed to be an offence of eve teasing and punished accordingly.".

Amendment of section 376.

9. In section 376 of the Code,—

(*a*) in sub-section (*1*), for the words " shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine", the words "shall be punished with rigorous imprisonment for fourteen years or with death and shall also be liable to fine" shall be substituted; and

(*b*) in sub-section (*2*), for the words "shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine", the words "shall be punished with rigorous imprisonment for life, or with death, and shall also be liable to fine" shall be substituted.

Amendment of section 376A.

10. In section 376A of the Code, for the words "shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death", the words "shall be punished with rigorous imprisonment for life, or with death" shall be substituted.".

Amendment of section 376B.

11. In section 376B of the Code, for the words "shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine", the words "shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may extend to ten years, and shall also be liable to fine" shall be substituted.

Amendment of section 376C.

12. In section 376C of the Code, for the words "shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine", the words "shall be punished with rigorous imprisonment of either description for a term which shall not be less than eight years, but which may extend to ten years, and shall also be liable to fine" shall be substituted.

Amendment of section 376D.

13. In section 376D of the Code, for the words "shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine", the words "shall be punished with rigorous imprisonment for life, or with death and with fine" shall be substituted.

Amendment of section 376E.

14. In section 376E of the Code, for the words "shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death", the words "shall be punished with rigorous imprisonment for life or with death and with fine" shall be substituted.".

Amendment of section 509.

15. In section 509 of the Code, for the words "shall be punished with simple imprisonment for a term which may extend to three years, and also with fine", the words "shall be punished with simple imprisonment for a term which may extend to five years, and with fine" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

In the Indian Penal Code (IPC), 1860 in its current form, eve-teasing of women is not concretely defined. Eve-teasing, as it is understood by the Indian courts, is dispersed across various sections under Indian Penal Code. In addition, the offences under these varied Sections relating to eve-teasing are bailable and non-cognisable. These laws have failed to check the rise in cases of eve-teasing in India. As per the National Crime Records Bureau (NCRB) data, offences against women under section 354 of Indian Panel Code have increased from 70,739 to 82,235, at 16.3% between 2013 and 2014.

According to the data collected by the National Crime Records Bureau, as many as 3,37,922 cases of crimes against women were registered in 2014. This is an increase of 9.2% from the registered crimes against women in 2013. Crimes committed under Indian Penal Code against women, as proportion of total Indian Penal Code crimes have increased to 11.4% in 2014.

The Criminal Law (Amendment) Act, 2013 did widen the definition of most acts of harassment aimed against women. But the crimes registered against women continue to rise.

Thus the possibility exists that the current form and term of punishments are not sufficient to deter the individuals from committing the crime. Evidence from the United States during 1980's points to increased sentence for a crime or making it harsher, having a positive impact on reducing the crime rate and overall incidence of crime in US. It is true that the effectiveness of the deterrence principle is much debated in the Criminal Justice system. The need is to provide harsher punishments in the Indian context.

The Bill, therefore, seeks to amend the Indian Penal Code, 1860 with a view to make eve-teasing an offence punishable under the Code and also to increase the penalties for various crimes committed against women.

Hence this Bill.

NEW DELHI;
November 4, 2016.

SUPRIYA SULE

BILL NO. 23 OF 2017

A Bill to provide for regulation of fee in higher educational institutions with a view to make higher education accessible to all and for matters connected therewith.

BE it enacted by Parliament in the Sixty-eighth year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Higher Educational Institutions (Regulation of Fee) Act, 2017.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) ''appropriate Government'' means in the case of a State and Union territory with Legislative Assembly, the State Government and the Government of the Union territory, respectively, and in all other cases, the Central Government;

(*b*) ''capitation fee'' means any amount demanded or charged or collected, directly or indirectly, for, or, on behalf of any institution, or paid by any person in consideration of admitting any person as student in an institution over and above the course fee;

(*c*) ''higher education'' means education after senior secondary education;

(*d*) ''Higher Educational Institution'' means a technical educational institution or a medical educational institution, whether unaided or aided by the appropriate Government, or any such institution registered under the Societies Registration Act, 1860 and recognized as such by the appropriate statutory authority or a university as defined in section 2 of the University Grants Commission Act, 1956 and includes an institution deemed to be a university under section 3 of that Act or under any other law for the time being in force but does not include an unaided minority educational institution;

21 of 1860.
3 of 1956.

(*e*) ''National Committee'' means the National Committee for Regulation of Fee in Higher Educational Institutions constituted under section 4;

(*f*) ''parent'' means biological or adoptive mother or father of a child;

(*g*) ''prescribed'' means prescribed by rules made under this Act;

(*h*) ''senior secondary education'' means education upto class twelfth; and

(*i*) ''State Committee'' means the State Committee for Regulation of Fee in Higher Educational Institutions constituted under section 6.

Prohibition on charging capitation fee.

3. Notwithstanding anything contained in any other law for the time being in force, no Higher Educational Institution shall charge capitation fee in any form for admission in such institution.

Constitution of the National Committee for Regulation of Fee in Higher Educational Institutions.

4. *(1)* The Central Government shall, by notification in the Official Gazette, constitute a National Committee to be known as the National Committee for Regulation of Fee in Higher Educational Institutions for carrying out the purposes of this Act.

(*2*) The National Committee shall consist of—

(*a*) a representative from the University Grants Commission, who shall be Chairperson of the National Committee;

(*b*) a representative each from the All India Council of Technical Education (AICTE), the Medical Council of India (MCI), the Indian Council for Agricultural Research (ICAR), the National Council for Teacher Education (NCTE), the Dental Council of India (DCI), the Pharmacy Council of India (PCI), the Indian Nursing Council (INC), the Bar Council of India (BCI), the Central Council of Homoeopathy (CCH), the Central Council for Indian Medicine (CCIM), the Council of Architecture, the Distance Education Council (DEC), the Rehabilitation Council of India for Rural Institutes (NCRI) and the State Councils of Higher Education (SCHE) as members; and

(c) an eminent economist and a statistician as member,

to be appointed by the Central Government in such manner as may be prescribed.

(*3*) The term of office of the members of the National Committee shall be five years and they shall not be eligible for re-appointment.

(4) The salary and allowances payable to and other terms and conditions of service of eminent economist and statistician shall be such as may be prescribed.

Functions of the National Committee.

5. The National Committee shall ,—

(*a*) prescribe the fee to be charged for each of the courses run by a higher educational institution;

(*b*) define the principle of reasonable surplus' and 'non-profiteering' on the basis of cost-fee analysis for courses run by higher educational institution; and

(*c*) undertake such other function as may be assigned to it by the Central Government, from time to time.

Constitution of State Committee.

6. *(1)* Every State Government shall, within three months from the date of coming into force of this Act and in consultation with the respective State Higher Education Boards, by notification in the Official Gazette, constitute a State Committee to be known as the State Committee for Regulation of Fee in Higher Educational Institutions.

(*2*) The State Committee shall consist of such number of members representing the State Higher Education Boards, teachers, parents and students to be appointed by the State Government concerned in such manner as may be prescribed.

Functions of the State Committee.

7. The State Committee shall,—

(*a*) ensure that the fee structure submitted by the higher educational institutions within the State conforms to the principles of, reasonable surplus' and 'non-profiteering' defined by the National Committee under section 5; and

(*b*) undertake such other function as may be assigned to it by the Central Government, from time to time.

Higher Educational Institutions to formulate the fee structure.

8. Every Higher Educational Institution shall formulate its fee structure for the courses run by it in consonance with the principles of 'reasonable surplus' and 'non-profiteering' as defined by the National Committee under section 5.

Act not to apply to unaided minority institutions.

9. The provisions of this Act shall not apply to unaided minority higher educational institutions.

Penalty.

10. Any Higher Educational Institution which demands or accepts any fee or donation, in any form or manner whatsoever, in violation of the provisions of this Act shall be liable to fine which shall not be less than rupees ten lakh but which may extend upto rupees twenty lakh.

Central Government to provide necessary funds.

11. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite sums to the State Governments for carrying out the purposes of this Act.

Overriding effect of the Act.

12. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to supplement other laws.

13. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

14. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the

expiry of the session immediately following the session or the successive sessions aforesaid, both the Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

India is one of the few countries to have relatively younger workforce. To benefit from this demographic dividend, it is important to invest in its youth and to make them more productive. Imparting of higher education and the skills acquired through it are quintessential for progress of a developing nation. Thus, commercialisation of higher education with the motive of profiteering must be checked.

The Supreme Court of India in its various judgments has ruled in favour of regulation of fee in Higher Educational Institutions. Any move to regulate the fee in Educational Institutions will promote the access to higher education to all.

In TMA Pai Foundation *v/s* State of Karnataka (2002), the Supreme Court ruled that the fee charged by private unaided institutions can be limited by the State to prevent profiteering, while allowing for 'reasonable surplus'.

In 2003 in Islamic Academy of Education *v/s* State of Karnataka (2003), the Supreme Court observed that the Educational Institutions can form their own fee structures, and the funds must be used to provide facilities to students and to further the growth of the educational institutions.

In line with the Supreme Court's judgment, some States did set up Committees to monitor the fee structure of Higher Educational Institutions. But, there is no framework at the national level prescribing the criteria for limits on fee and the definition of terms 'reasonable surplus' and 'profiteering'. The proposed Bill aims to provide a broad framework for regulation of fee in Higher Educational Institutions.

Hence this Bill.

NEW DELHI;
January 2, 2017.

SUPRIYA SULE

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for constitution of National Committee for Regulation of Fee in Higher Educational Institutions. It also provides for appointment of an economist and statistician to the National Committee. Clause 6 provides for constitution of State Committee by the State Government concerned. Clause 11 provides that the Central Government shall provide adequate funds to the State Governments for carrying out the purposes of the Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees twenty-five crores would be involved as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees ten crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 295 OF 2016

A Bill to provide for constitution of a Committee for fixing the prices of drugs and for matters connected therewith.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commence-ment.

1. (*1*) This Act may be called the Drugs (Price Control) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "dealer" means a person engaged in the business of purchase or sale of drugs, whether as a wholesaler or retailer and whether or not in conjunction with any other business and includes his agent;

(*b*) "distributor" means a distributor of drugs or his agent and includes a stockist appointed by a manufacturer or an importer for stocking his drugs for sale to a dealer; and

(*c*) "drug" includes—

(*i*) all medicines for internal or external use of human beings and all substances intended to be used for, or in the diagnosis, treatment, mitigation, or prevention of any disease or disorder in human beings including preparations applied on human body for the purpose of repelling insects like mosquitoes;

(*ii*) such substances, intended to affect the structure or any function of the human body or intended to be used for the destruction of vermin or insects which cause diseases in human beings; and

(*iii*) drugs of all systems of medicine like allopathy, homoeopathy, ayurveda, unani and siddha.

Constitution of Drugs (Price Control) Committee.

3. (*1*) There shall be constituted a Committee to be known as the Drugs (Price Control) Committee (hereinafter referred to as the Committee) to fix the prices of drugs.

(2) The Committee shall consist of—

(i) the Minister of Health and Family Welfare, Government of India	Chairman, *ex officio;*
(ii) four representatives of major hospitals including Government run hospitals	members;
(iii) three representatives of drugs industry	members;
(iv) two representatives of Indian system of medicine	members;
(v) Secretary to the Government of India, Ministry of Health and Family Welfare.	member secretary, *ex officio.*

Functions of the Committee.

4. The Committee shall—

(*i*) fix the prices of drugs after taking into consideration the costs of manufacturing, storage, packaging, import of formulation and distribution as well as profit of manufacturer and such other factors as it may deem necessary;

(*ii*) promote the use of generic drugs; and

(*iii*) determine the standard of drugs.

Prohibition on selling of drug at a price exceeding the price determined by the Committee.

5. No person or a manufacturer or a distributor or a dealer shall sell any drug to any consumer at a price exceeding the price fixed by the Committee.

Penalty.

6. (*1*) Whoever contravenes the provisions of this Act shall be punished with imprisonment for a term which may extend to six months and with fine which may extend to one lakh rupees.

(*2*) Where an offence under this Act has been committed by a company, the licence of such company shall be cancelled forthwith.

Explanation.—For the purpose of sub-section (*2*), "company", means any body corporate, and includes a firm or other association of individuals.

Power to make rules.

7. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which

may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The price of drugs and medicines keeps on increasing. The Government controls the price of 348 essential drugs listed in the national list. The National Pharmaceutical Pricing Authority (NPPA) has withdrawn the guidelines regarding 108 life saving drugs from the provision of drugs price control which provided the pharmaceutical companies to increase the exorbitant cost of drugs.

The manufacturers and traders increase the cost of medicines arbitrarily. The ineffective control system leads to manufacture and distribution of fake drugs in the name of generic drugs. People, especially poor people are affected by the exorbitant cost of drugs. They are not able to afford the medicines. At present there is no check on the prices of drugs. Medical practitioners with the lure of money and costly gifts from manufacturers generally prescribe costly medicines which common man cannot afford. They should instead prescribe generic drugs, which are cheap, affordable and equally effective as the branded drugs.

Hence the Bill.

NEW DELHI;
November 7, 2016.

SHRIRANG APPA BARNE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of a Committee to be known as the Drugs (Price Control) Committee to fix the prices of drugs. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees five hundred crore per annum.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of a normal character.

BILL NO. 301 OF 2016

A Bill to provide compulsory mental healthcare counselling facilities in Government schools and for matters connected therewith.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Compulsory Mental Healthcare Counselling Facilities in Government Schools Act, 2016.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government; and

(*b*) "counselling" means a process by which a psychiatrist addresses the mental healthcare of a child;

(*c*) "mental healthcare" includes analysis and diagnosis of a person's mental condition and treatment as well as care and rehabilitation of such person for his mental illness or suspected mental illness;

(*d*) "mental illness" means a substantial disorder of thinking mood, perception, orientation or memory that grossly impairs judgement, behaviour capacity to recognise reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by subnormality of intelligence;

(*e*) "psychiatrist" means a medical practitioner possessing a post-graduate dgree or diploma in psychiatry awarded by a university recognised by the University Grants Commission established under the University Grants Commission Act, 1956, or awarded or recognised by the National Board of Examinations and included in the First Schedule of Indian Medical Council Act, 1956, or recognised by the Medical Council of India, constituted under the Indian Medical Council Act, 1956, and includes, in relation to any State, any medical officer who having regard to his knowledge and experience in psychiatry, has been declared by the Government of that State to be a psychiatrist for the purposes of this Act; and

3 of 1956.

102 of 1956.

102 of 1956.

(*f*) "prescribed" means prescribed by rules made under this Act.

Compulsory mental healthcare counselling in Government schools.

3. The appropriate Government shall provide mental healthcare counselling in every Government school in such manner, as may be prescribed.

Appropriate Government to appoint psychiatrist in Government schools.

4. The appropriate Government shall appoint adequate number of psychiatrist to provide mental healthcare counselling in Government schools in such manner, as may be prescribed.

Exemptions.

5. Notwithstanding anything contained in section 3, the appropriate Government may, by notification in the Official Gazette, specify the circumstances and technical grounds under which exemptions may be granted to any Government school from the provisions of this Act.

Central Government to provide requisite funds.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite sums to the appropriate Governments for carrying out the purposes of this Act.

Power to remove difficulty.

7. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after expiry of two years from the date of commencement of this act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Act not in derogation of any other law.

8. The provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force.

Power to make rules.

9. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

A number of children, especially in the rural and remote areas undergo some kind of violence at home or oustide, be it sexual or domestic. Apart from sexual abuse and rape, pushing, slapping, punching, stalking and emotional abuse are other forms of domestic violence against children Girls are more susceptible to such violence.

These experiences lead to mental health issues such as depression and anxiety amongst the children. If left untreated, these mental health issues can have a direct impact on child's learning, academic performance and overall personality development. It is comparatively easy for children in the cities too open about such instances and seek help. However, children in the villages tend to be unaware at times about what actually happened to them. Furthermore, due to lack of education and advancement in some cases, they do not feel comfortable talking to anyone about the violence either. Stigma attached to such instances is another reason for children not seeking help.

Mental health counselling by professionals like psychiatrist will help the children to speak up about the problems they face. Seeking help will prevent further mental issues that these children could face. Professionals know the appropriate way to deal with such issues and thus, help these children overcome the trauma and lead a normal childhood.

Hence this Bill.

NEW DELHI;
November 9, 2016.

KIRIT PREMJIBHAI SOLANKI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that appropriate Government shall provide mental healthcare counselling in Government schools. Clause 4 provides for appointment of psychiatrist in Government schools. clause 6 provides that the Central Government shall provide adequate funds to the State Government for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of rupees fifty crore is likely to be incurred from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 305 OF 2016

A Bill to include the Scheduled Castes and the Scheduled Tribes in the below poverty line category.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Inclusion of the Scheduled Castes and the Scheduled Tribes in Below Poverty Line Category Act, 2016.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(*b*) "persons living below poverty line" means such persons who according to norms fixed by the Central Government, from time to time, are placed in the persons living below the poverty line category; and

(*c*) "prescribed" means prescribed by rules made under this Act.

Inclusion of the Scheduled Castes and the Scheduled Tribes under the persons living below poverty line.

3. The appropriate Government shall, by notification in the Official Gazette, frame policy for inclusion of the Scheduled Castes and the Scheduled Tribes residing within its territorial jurisdiction in the persons living below poverty line category:

Provided that persons belonging to the Scheduled Castes and the Scheduled Tribes who are income tax payee in Government service shall not be included in the persons living below poverty line Category.

Central Government to provide requisite funds.

4. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite sums to the appropriate Governments for carrying out the purposes of this Act.

Power to remove difficulty.

5. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after expiry of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Act not be in derogation of other laws.

6. The provisions of this Act shall be in addition to and not in derogation of any other law, for the time begin in force.

Power to make rules.

7. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

(*2*) Every rule made under his Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be Comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under such rule.

STATEMENT OF OBJECTS AND REASONS

Even today a substantial portion of the Scheduled Caste' and the Scheduled Tribes' population still lives in underprivileged conditions. Despite the reservations, a considerable section of this population has not been able to achieve equal status.

Furthermore, even though many socio economic actions are taken for the upliftment of the Scheduled Castes and the Scheduled Tribes population, they still remain vulnerable. They are subjected to violence, inequality and unequal opportunities to grow and flourish. Thus, to eradicate this discrimination, inclusion of the Scheduled Castes and the Scheduled Tribes population in the BPL category is important.

It would be naive to assume that this inclusion will lead to a casteless society and change the status of the population overnight, however, this would be small but definite step towards eradicating caste from this society and giving everyone an equal chance to grow.

Hence this Bill.

NEW DELHI;
November 9, 2016.

KIRIT PREMJIBHAI SOLANKI

FINANCIAL MEMORANDUM

Clause 6 provides that the Central Government shall provide adequate funds for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of rupees fifty crore is likely to be incurred.

No non-recurring expenditure is likely to be involved.

BILL NO. 310 OF 2016

A Bill to provide for stringent punishment and adequate compensation for non-nuclear industrial mishaps in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Public Liability for Non-Nuclear Industrial Mishap Act, 2016.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires:—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*b*) "Claims Commissioner" means the Claims Commissioner appointed under section 3;

(*c*) "Fund" means Non-nuclear Industrial Mishap Fund constituted under section 15;

(*d*) "liability" means the liability of the Central Government or the State Government or both for fixing and awarding compensation to the victims of any mishap causing minor or major injuries or death of the individuals;

(*e*) "mishap" means any incident causing injury or death of any individual due to operational fault in the non-nuclear industry;

(*f*) "non-nuclear industries" includes industries other than the nuclear industries, which are covered under the Civil Liability for Nuclear Damage Act, 2010 and the Public Liability Insurance Act, 1991, whether Government undertakings, private or in joint venture or an autonomous undertaking; and

38 of 2010.
6 of 1991.

(*g*) "prescribed" means prescribed by rules made under this Act.

Compensation for Non-nuclear Industrial mishaps.

3. (*1*) Whoever suffers due to mishap in a non-nuclear industry shall be entitled to claim compensation in accordance with the provisions of this Act.

(*2*) For the purpose of adjudicating upon claims for compensation for any mishap, the appropriate Government shall—

(*a*) notify the mishap within a period of six months from the date of occurrence of such mishap; and

(b) appoint one or more Claims Commissioners for such areas of mishap, as may be specified in that notification, in such manner as may be prescribed.

Qualification for appointment as Claims Commissioner.

4. A person shall not be qualified for appointment as a Claims Commissioner unless he—

(*a*) is, or has been, a district judge, or

(*b*) in the service of the appropriate Government and has held the post not below the rank of Joint Secretary or Deputy Collector of the area or any other equivalent post.

Salary, Allowances & other terms and conditions of service of the Claims Commissioner.

5. The salary and allowances, payable to, and other terms and conditions of service, of Claims Commissioner shall be such as may be prescribed.

Adjudicating procedure and powers of Claims Commissioner.

6. (*1*) For the purpose of adjudication of claims under this Act, the Claims Commissioner shall follow such procedure as may be prescribed.

(2) For the purpose of holding inquiry, the Claims Commissioner may associate with him such persons having expertise in non-nuclear industries or such other persons and in such manner as may be prescribed.

(3) The salary and allowances payable to and other terms and conditions of service of a person associated under sub-section (2) shall be such as may be prescribed.

(4) The Claims Commissioner shall be deemed to be a civil court for the purposes of discharging his functions under this Act and shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908.

5 of 1908.

Inviting applications for claims by Claims Commissioner.

7. After the notification of non-nuclear mishap under clause (a) of sub-section (2) of section 3, the Claims Commissioner, having jurisdiction over the area, shall cause wide publicity to be given, in such manner as he deems fit, for inviting applications for claiming compensation for injuries or death caused due to such mishap.

Persons entitled to make application for Non-nuclear industrial mishap.

8. An application for compensation before the Claims Commissioner of Non-nuclear industrial mishap shall be made by—

(*a*) a person who has sustained injury or any agent duly authorized by such persons; or

(*b*) the legal representatives of the deceased.

Procedure for making applications before Claims Commissioner.

9. (*1*) Every application for compensation before the Claims Commissioner shall be made in such form, containing such particulars and accompanied by such documents as may be prescribed.

(*2*) Every application under sub-section (*1*) shall be made within a period of six months from the date of issue of notification of mishap under clause (*a*) of sub-section (*2*) of section 3.

Award by Claims Commissioner.

10. (*1*) The Claims Commissioner shall, on receipt of an application under sub-section (*1*) of section 9, after giving notice of such application to the owner and after giving a reasonable opportunity of being heard to the parties, dispose of the applications within a period of three months from the date of such receipt and make an award accordingly.

(*2*) The Claims Commissioner shall provide the copies of the award to the parties within a period of fifteen days from the date of pronouncing the award in such manner as may be prescribed.

Limits of Liability.

11. The maximum amount of liability with respect to Non-nuclear industrial mishap shall,—

(a) in case of loss of life to a person shall be rupees ten lakh; and

(b) in case of permanent injury including immediate and long term health impact to a person shall not be less than rupees two lakh but which may extend upto rupees five lakh depending upon the nature of such injury sustained.

Penalties.

12. Whoever—

(*a*) negligently causes loss of life or personal injury, in any mishap, or

(*b*) contravenes any provisions of this Act and rules made under it,

shall, for the first offence, be punishable with imprisonment for a term which may extend upto five years or with fine which shall not be less than rupees fifty thousand but which may extend upto rupees one lakh, or with both:

Provided that if offender fails to pay the amount of fine under clause (*b*), the term of imprisonment shall be extended by another two years:

Provided further that if second mishap causing death or permanent injury takes place in any non-nuclear industry by an act of negligence of any person, the operations in that industry shall be stopped forthwith.

Offences by industries.

13. Where a contravention under this Act is committed by a private company or joint venture Industry, the owner, or the majority shareholding person, who, at the time the offence was committed, was directly in charge of, and was responsible to the conduct of business of the industry shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Offences by Government Department.

14. Where a contravention under this Act is committed by any Department of the Government, the Head of that Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Non-nuclear Industrial Mishap Relief Fund.

15. *(1)* The appropriate Government shall, by notification in the Official Gazette, constitute a fund to be known as Non-nuclear Industrial Mishap Relief Fund which shall be utilized for paying in accordance with provisions of this Act relief under the award made by Claims Commissioner.

(2) The Fund shall be constituted by the grants from the Central Government and the State Governments in such proportions as may be prescribed from time to time.

(3) The appropriate Government shall, by notification in Official Gazette, specify the authority in which the Fund shall vest and the manner in which the Fund shall be administered.

Overriding effects.

16. The provisions of this Act shall have effect notwithstanding anything inconsistent contained herewith in any other law for time being in force.

Act not in derogation of any other law.

17. The provisions of the Act shall be in addition to and not derogation of any other law for the time in force.

Power to make rules.

18. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Non-nuclear industrial mishaps causing injury or danger to life in respect of persons engaged in such sectors or industries are on the rise in the country and the affected people are not adequately covered by relevant laws in respect of such industries, which result into the affected individuals or his/their family/families not getting adequate compensation or the offender getting away with mild charges being made against him or the concerned industry's management. It is, therefore, need of the hour that law be passed in this regard for stringent punishment and adequate compensation before the situation goes beyond control.

The Public Liability Insurance Act, 1991 was supposed to reflect post-Bhopal concerns. Despite amendments providing for minimal insurance and interim relief, it proved to be a damp squib. Insurance does not reflect claims. The Act is barely used. Therefore, there is a pressing need for a law to ensure all such disasters other than nuclear ones are covered under it and victims are paid adequate and timely compensation.

Hence this Bill.

NEW DELHI; RANJEET RANJAN

November 15, 2016.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall appoint one or more Claims Commissioner to adjudicate claims for compensation with respect to non-nuclear industrial mishap. Clause 5 of the Bill provides for salary and allowances payable to Claims Commissioner. Clause 6 provides for payments to persons associated for adjudication of claims by the Claims Commissioner. Clause 7 provides for wide publicity to be given for inviting application for claims. Clause 11 provides for a compensation of rupees ten lakh in case of death caused by non-nuclear industrial mishaps in the country and compensation to injured person which may vary from rupees two lakh to five lakh depending upon the nature of injuries. Clause 15 provides for establishment of Non-nuclear Industrial Mishap Relief Fund. The Bill, therefore, if enacted, will involve recurring as well as non-recurring expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees Five hundred crore would involve from the Consolidated Fund of India.

A non-recurring expenditure of about rupees One hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 304 OF 2016

A Bill to provide for the simple solemnisation of marriages by prohibiting extravagant and wasteful expenditure and show of wealth on marriages for the compulsory registration of all marriages solemnised in the country, and for prevention of wastage of food items during marriage functions and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, and extent.

1. (*1*) This Act may be called the Marriages (Compulsory Registration and Prevention of Wasteful Expenditure) Act, 2016.

(*2*) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate government" means in the case of a State, the Government of that State, and in all other cases, the Central Government;

(*b*) "designated Authority" means an authority or an officer designated for the purpose of registration of marriages under this Act;

(*c*) "expenditure on marriage" includes expenditure incurred by either bridegroom's side or by bride's side, as the case may be, on marriage celebrations such as on invitation cards, decoration, tented pandals, illumination, fireworks, luncheon, dinner, clothes, ornaments, gifts, hiring of a barat ghar, community centre, banquet hall, or gated or ordinary hotel, farm house, parks and such other places, band, musical groups and dancers, jockeys film and television stars, helicopter or aircraft, cars and other vehicles, flower and other decorations, horse driven chariots, anything considered as dowry or *Streedhan* and any other expenditure incurred during the celebration of marriage or during hosting of reception thereof; and

(*d*) "prescribed" means prescribed by rules made under this Act.

Compulsory solemnisation of simple marriage.

3. (*1*) Notwithstanding anything contained in any other law for the time being in force or in any custom or ritual, all marriages shall be solemnised in a simple manner without incurring extravagant and wasteful expenditure and show of wealth and lavish spending thereon.

(*2*) Without prejudice to the generality of the provisions contained in sub-section (*1*), the solemnisation of simple marriage shall include the limit of expenditure of marriage to the tune of twenty five per-cent of the annual income of the family subject to a ceiling of rupees five lakhs:

Provided that if any family intends to spend more than rupees five lakhs towards expenditure on marriage, such family shall declare the amount proposed to be spent in advance to the appropriate Government and contribute ten per cent of such amount in a Welfare Fund which shall be established by the appropriate Government to assist the poor and Below Poverty Line families for the marriage of their daughters in such manner as may be prescribed.

(*3*) The appropriate Government shall issue necessary guidelines to be followed for carrying out the provisions of this Act.

Prevention of wastage of food items during marriage functions.

4. (*1*) Notwithstanding any custom or ritual of any community, religion, tribe, or caste, the wastage of food items served during the celebration of a marriage or reception thereof is hereby prohibited.

(*2*) Without prejudice to the generality of the foregoing provision, the appropriate Government may fix the limit of guests and relatives and number of dishes to be served to the guests and relatives for the solemnisation of marriage or for the reception held thereafter as it may deem necessary or expedient to prevent the wastage of food items.

Compulsory registration of marriages.

5. (*1*) Notwithstanding anything contained in any other law for the time being in force or in any custom or usage to the contrary, all the marriages solemnised in the country after the commencement of this Act shall be registered within sixty days of the solemnisation of marriage in such manner as may be prescribed.

(*2*) For the purposes of sub-section (*1*), the appropriate Government shall, by notification in the Official Gazette, designate an authority or an officer for registration of marriage in each district within its territorial jurisdiction.

(*3*) The designated authority shall maintain a register of marriage containing such particulars and details as may be prescribed and shall also keep the same in electronic form.

(*4*) The appropriate Government shall prescribe the documents relating to solemnisation of marriage which shall be furnished for the registration of marriage.

(*5*) After the registration of marriage under this section, a Marriage Certificate shall be issued to the married couple giving such details as may be prescribed.

(*6*) Notwithstanding anything contained in any other law for the time being in force or any custom, the marriage solemnised after the commencement of this Act shall be null and void, if not registered within sixty days of solemnisation of such marriage.

Penalty.

6. Whoever,—

(*a*) contravenes the provisions of section 3 shall be punishable with simple imprisonment for a term which may extend to three years and also with fine which may extend up to five lakh rupees; and

(*b*) contravenes the provisions of section 4 shall be punishable with simple imprisonment for a term which may extend to one month and also with a fine which may extend up to fifty thousand rupees; and

(*c*) fails to register his marriage within the prescribed period or gives false information in registering his marriage shall be punishable with simple imprisonment for a term which may extend to six months and also with a fine which my extend up to two lakh rupees.

Central Government to provide funds.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Power to remove difficulty.

8. If any difficulty arises in giving effect to the provisions of this Act. the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry or the period of three years from the date of commencement of this Act.

Act to have overriding effect.

9. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to marriages.

Power to make rules.

10. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of not effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Our nation is known for unity in diversity because people of different religions, groups, castes, communities live together, who have their own or different cultures, customs, traditions to follow. But one thing is perhaps common and that is marriage which is treated as an institution. Great importance is assigned to the solemnisation of marriage between two individuals—male and female. But unfortunately, these days a tendency of celebrating marriages with pomp and show and spending lavishly is growing in the country. Millions of rupees are spent on decorated *shamianas* or banquet halls followed by sumptuous feasts with musical groups performing in the backdrop, video Jockeys doing anchoring. Some people even spend crores and crores of rupees on solemnisation of marriage in five or seven Star hotels where thousands of *baraatis* attend the ceremony who come by helicopters. Substantial cash and gifts, sometimes even costly cars and other valuable items, are given as shagun. Many people use this occasion to spend their balck money. Media gives wide publicity in page three to such marriages. This trend or craze is getting momentum. The poor people who are in majority, cannot afford to arrange money for such a luxury and despite that take loans on very high rate of interest and become indebted. This tendency needs to be checked through law by minimizing the role of money on an auspicious occasion like marriage.

Another tendency that is also noticed during the marriage ceremonies is wastage of food items on a large scale. In one marriage tonnes of food is wasted which could fill the bellies of many poor people. In a poor country like ours where nearly half of its population does not get two square meals a day, wastage of food may certainly be treated as a crime. In Pakistan, in marriage parties, one can serve only four dishes to the guests and wastage of dishes is treated as criminal wastage. The number of guests too are restricted. Similar action needs to be taken in our Country also.

Recently, the Supreme Court of India, moved by the plight of women fighting for their right under wedlock, ruled that all marriages should be registered. This ruling of the apex court is yet to be implemented.

Hence this Bill.

NEW DELHI;
November 15, 2016.

RANJEET RANJAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall establish a welfare Fund to assist the poor and Below Poverty Line families for the marriage of their daughter. Clause 5 of the Bill provides for appointment of the designated authority or officer in every district of the country. Clause 7 makes it mandatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill, therefore, if enacted, would involve expediture from the Consolidated Fund of India. At this stage, it is not possible to estimate the expenditure likely to be incurred. However, it is estimated that a sum of rupee two hundred crore would involve as recurring expenditure per annum from the Consolidated Fund of India. A non-recurring expenditure of about rupees five hundred crore is also likely to be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Billl empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of normal character.

BILL NO. 315 OF 2016

A Bill to provide for ascertaining of current status of waste generation and its disposal; financial assistance for research and development in waste management; charges for waste disposal facilities; duties of citizens for segregating waste; prohibition on dumping waste; preparation of master plans for waste management; disposal of household, commercial and imported wastes; regulation of waste management business, promotion of recycling and reuse of waste resources and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent, commencement and non-application.

1. (*1*) This Act may be called the Waste Management and Recycling Act, 2016.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(*4*) This Act shall not apply to any of the following substances:

(*a*) an emission into the atmosphere, other than an emission from a facility for the holding, recovery or disposal of waste;

(*b*) sewage and sewage effluent (other than sludge from a facility for the treatment of sewage);

(*c*) the treatment of effluent or the discharge thereof to waters, other than the treatment of effluent at, or its discharge from, a facility for the holding, recovery or disposal of waste;

(*d*) the dumping of waste at sea; or

(*e*) a radioactive substance within the meaning of the Atomic Energy Act, 1962. 33 of 1962.

Definitions.

2. In this Act, unless the context otherwise requires:

(*a*) 'appropriate Government' means—

(*i*) in relation to an establishment of the Central Government, or an establishment, wholly or substantially owned or financed by that Government, or a Cantonment Board constituted under the Cantonments Act, 1924, or a Union territory without legislature, or the provider of a service which pertains to List I - Union List of the Seventh Schedule to the Constitution, the Central Government; 2 of 1924.

(*ii*) in all other cases, the State Government or, as the case may be, the Government of a Union territory with Legislature.

(*b*) 'bulky wastes' means substances which are separately measurable and the name of the article is identifiable, such as furniture and household electric appliances that are discharged from homes, workplaces etc;

(*c*) 'by-products' means things produced incidentally in the process of manufacturing, processing, repairing or selling goods, supplying energy, or performing civil and construction works;

(*d*) 'collection' means, in relation to waste, the gathering, sorting or mixing of waste for the purpose of its being transported, and includes the transport of waste and the acceptance of control of waste;

(*e*) 'commercial wastes' means any wastes generated from places of business with discharging facilities installed and managed in accordance to law prescribed or any other place of business established in accordance to law;

(*f*) 'controlled wastes' means the commercial wastes specifically enumerated by law as harmful substances such as waste oil and waste acid, which may contaminate environment or medical refuse, which may cause harm to human bodies;

(*g*) 'disposal' means both interim disposal, such as incineration, neutralization, fragmentation, and solidification (including recycling) and terminal disposal, such as landfill and discharging into the sea;

(*h*) 'energy recovery' means recovering energy from recyclable resources in accordance with the standards established by the Union Ministry of Environment, Forest and Climate Change or converting them into energy-recoverable substances;

(*i*) 'establishment' includes—

(*i*) departments and ministries of Government;

(*ii*) local authorities and authorities or bodies owned, controlled or aided by the Central or State Government;

(*iii*) any statutory or non-statutory body created, owned, financially or administratively controlled or aided by the Central or State Government or any such body performing public or civic functions and includes Government Companies as defined in clause (*20*) of section 2 of the Companies Act, 2013;

18 of 2013.

(*iv*) any company, firm, cooperative or other society, association, trust, agency, institution, organization, union, industry, supplier of goods or services, factory or other non-statutory body which is not covered under clause (*i*) to (*iii*);

(*j*) 'household wastes' means any wastes other than commercial wastes;

(*k*) 'local authority' means a municipality, a Cantonment Board, a panchayat or any other authority, established under an Act of Parliament, or a State Legislature to administer the civic affairs of any habitation as defined in or under such Act;

(*l*) 'medical refuse' means the wastes discharged from public health and medical institutions, veterinary clinics, testing and inspection institutions and other similar institutions, which may cause harm to human bodies by infection or otherwise and for which it is deemed necessary to be put under special control for public health and environmental conservation such as parts and extracts of human bodies and carcasses of laboratory animals;

(*m*) 'packing materials' means materials, containers, etc. which are used to pack goods for the purpose of protecting their value and state and preserving their quality in the process of transportation, keeping, handling and use;

(*n*) 'premises' includes any building, vessel, structure or land (whether or not there are structures on the land and whether or not the land is covered with water), and any plant or vehicles on such land, or any hereditament of any tenure, together with any out-buildings and curtilage;

(*o*) 'prescribed' means prescribed by rules made under this Act;

(*p*) 'recycling of waste resources' means using and managing the process of recycling resources in an environment-friendly manner by controlling the generation of wastes to a necessary extent and properly recycling or treating generated wastes in order to achieve the objectives of environmental policies;

(*q*) 'recyclable resources' means goods or by-products collected after being disposed of in an used or unused state, which are reusable or reusable after reconditioning (including recoverable energy and waste heat, but excluding radioactive substances and substances contaminated by radioactive substances);

(*r*) 'recycling' means activities of reusing or recycling wastes or making wastes reusable or renewable or recovering energy in accordance with the standards established by the Union Ministry of Environment, Forest and Climate Change;

(*s*) 'reuse' means using recyclable resources again as they are or after repairing or making them usable again for production activities;

(*t*) 'recycled goods' means goods prescribed by the Union Ministry of Environment, Forest and Climate Change which are produced by using recyclable resources;

(*u*) 'recycling facilities' means installations, equipment, facilities etc. prescribed by the Union Ministry of Environment, Forest and Climate Change which are used to manufacture, process, assemble, repair, collect, transport and keep recyclable resources or recycled goods;

(*v*) 'recycling industries' means industries which manufacture, process, assemble, repair, collect, transport and keep recyclable resources or recycled goods or conduct the research and development of recycling technology;

(*w*) 'transport' includes, in relation to waste, the movement of waste by road, rail, air, sea or inland waterway but does not include the movement of waste from one place to another—

(*i*) by means of any pipe or similar apparatus which joins those two places, or

(*ii*) on and within the site at which the waste is held for the time being;

(*x*) 'treatment' includes, in relation to waste, any thermal, physical, chemical or biological processes that change the characteristics of waste in order to reduce its volume or hazardous nature or facilitate its handling, disposal or recovery;

(*y*) 'use after regeneration' means using recyclable resources again in whole or in part as raw materials or making them usable again;

(*z*) 'wastes' means such materials as garbage, burnt refuse, sludge, waste oil, waste acid, waste alkali, and carcasses of animals, which have become no longer useful for human life or business activities;

Act to have overriding effect.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

CHAPTER II

ACCOUNTABILITIES OF APPROPRIATE GOVERNMENT

Ascertaining the current status of waste disposal, providing financial assistance and supporting research and development in waste management.

4. (*1*) The appropriate Government shall—

(a) ascertain the current status of wastes discharged and disposed of within its jurisdiction;

(b) install and operate waste disposal facilities;

(c) implement affairs relating to waste management efficiently by improving the methods for collecting, transporting and disposing of wastes and raising the skills and quality of the persons in charge; and

(d) create awareness among the residents and business operators of the importance of protecting environment and to restrain the production of wastes.

(2) The appropriate Government shall provide financial assistance to the local authorities to help them fulfil their accountabilities under sub-section (*1*) and coordinate among all agencies providing waste management services within their jurisdiction.

(3) The appropriate Government shall ascertain the current status of controlled wastes discharged and disposed of and take such measures as may be necessary for properly disposing of such wastes.

(4) The appropriate Government shall support the research and development of technology for waste disposal, provide technical and financial assistance as may be necessary in helping persons or agencies in fulfil their accountabilities under sub-sections (*1*) and (*2*) and coordinate among different agencies providing waste management services with them whenever deemed proper and necessary.

Multi-regional waste management.

5. (*1*) If the appropriate Government deems it necessary to dispose of wastes generated from two or more places with an integrated system for a multiple number of regions, it may solely or jointly install and operate multi-regional waste disposal facilities (including public disposal facilities for controlled wastes).

(*2*) The appropriate Government may commission a person designated to install or manage the multi-regional waste disposal facilities under sub-section (*1*).

Charges for waste disposal in waste disposal facilities.

6. (*1*) An institution that has installed and operates a waste disposal facility under sub-section (*1*) of section 4 or sub-section (*1*) of section 5, may charge fee for disposal of wastes brought into the facility (hereinafter referred to as the "waste disposal charge") from the persons who bring wastes into such facility.

(*2*) In cases where a waste disposal facility has been installed and is operated jointly by two or more local authorities, the waste disposal charge shall be determined by the local authority in terms of rules framed by the appropriate Government.

(*3*) The amount of waste disposal charge shall be prescribed by the rules framed by the appropriate Government.

CHAPTER III

CITIZENS DUTIES AND PROHIBITION OF DUMPING WASTES

Duties of citizens.

7. (*1*) Every citizen shall keep natural and living environments clean and make efforts to reduce and recycle wastes.

(*2*) Every owner, occupant, and manager of a parcel of land or a building shall keep such land or building owned, occupied, or managed by him clean, and implement general clean-up in accordance with the plan prepared by the appropriate Government.

Prohibition of dumping wastes and measures for compliance.

8. (*1*) No person shall dump wastes in any public area, other than the places and facilities provided for collection of wastes by the appropriate Government or the manager of a facility.

(*2*) No person shall bury or incinerate wastes in any area other than the landfill sites licensed or approved under this Act:

Provided that provision of sub-section (*2*) shall not apply to incineration or disposal of household waste discharged within his private house or place.

(*3*) The appropirate Government may by order direct the owner, occupant, or manager of a parcel of land or building to take necessary measures if the owner, occupant, or manager fails to keep the property clean under his control pursuant to sub-section (*2*) of section 7.

CHAPTER IV

PLANS FOR WASTE MANAGEMENT

Preparation of basic plan for waste management once in ten years.

9. (*1*) The appropriate Government shall prepare a basic plan for proper management of wastes generated within its jurisdiction once every ten years in compliance with the guide-lines prescribed by the Union Ministry of Environment, Forest and Climate Change, subject to the approval of the Union Cabinet.

(*2*) The Union Ministry of Environment, Forest and Climate Change shall, while revising any basic plan prepared under sub-section (*1*), consult the heads of central administrative agencies concerned.

(*3*) The head of local authority shall prepare a basic plan for management of wastes generated in that local area once every ten years and submit it to the District Collector.

(*4*) The basic plan under sub-section (*1*) and (*2*) shall contain the following details—

(*a*) overview of the population, residential patterns, industrial structure and distribution, geographical environment, or any other such factor within his jurisdiction;

(*b*) the quantity of wastes generated by categories and the estimated quantity of wastes in the future;

(*c*) current status of and future plan for waste management;

(*d*) matters concerning reduction, recycling, and conversion of waste into resources;

(*e*) current status of and future plan for installation of waste disposal facilities;

(*f*) matters concerning collection, transportation, and storage of wastes and improvement of equipment and containers for wastes; and

(*g*) plan for securing financial sources.

Master plans for waste management and review the feasibility once in five years.

10. (*1*) The Union Ministry of Environment, Forest and Climate Change shall prepare a master plan for nationwide waste management based on the basic plans for waste management under sub-section (*1*) of section 9 and the results of statistical researches on wastes under section 11 once every ten years for proper management of wastes generated throughout the country.

(*2*) The Union Ministry of Environment, Forest and Climate Change may review the feasibility of the master plan for revision once every five years after the date on which the master plan is finalized.

(*3*) If the Master Plan is revised under sub-section (*2*), the appropriate Government shall also revise the basic plan for waste management under sub-section (*1*) of section 9, reflecting the revised details of the master plan in the basic plan, and submit it to the Union Ministry of Environment, Forest and Climate Change for approval.

(*4*) The Master plan shall contain the following details—

(*a*) evaluation of the previous mater plan;

(*b*) circumstances and prospects for waste management;

(*c*) basic principle of the master plan;

(*d*) policy on waste management by sectors; and

(*e*) plan for securing financial sources.

Research on wastes disposal and on waste management.

11. *(1)* The appropriate Government shall conduct statistical researches on the current status of wastes generated and disposed of; the distribution of wastes generated by kinds and by areas; and trends of changes in wastes, as prescribed by the Union Ministry of Environment, Forest and Climate Change in order to secure basic data and information necessary for establishing policies on wastes.

(2) The appropriate Government shall conduct research and development in the area of waste management.

Official waste testing method.

12. The Union Ministry of Environment, Forest and Climate Change shall determine and notify the official testing method for wastes in order to ensure accuracy and uniformity in the analyses of the nature and state of wastes, the leaching of contaminants therefrom, for basic data required for examining the seriousness of hazards caused by wastes and determining waste disposal methods.

CHAPTER V

DISCHARGE OF HOUSEHOLD WASTES

Standards of waste management.

13. Any person who intends to collect, transport, keep in storage, or dispose of wastes shall comply with the standards and methods prescribed by appropriate Government.

Disposal of household wastes.

14. *(1)* The appropriate Government shall be responsible for the collection, transportation, and disposal of household wastes discharged within his jurisdiction:

Provided that a specific area designated by the appropriate Government, as may be prescribed by the rules framed by the Union Ministry of Environment, Forest and Climate Change shall be excluded from the area under its jurisdiction for the purposes of this section.

(*2*) The appropriate Government may commission a person specified by the Union Ministry of Environment, forest and Climate Change to vicariously implement the collection, transportation, or disposal of under sub-section (*1*).

(*3*) The appropriate Government may collect service charge for collection, transportation, and disposal of household wastes as prescribed by rules of the competent local authority.

Direction as to the disposal of household waste discharged.

15. (*1*) Every owner, occupant, and manager of a parcel of land or a building from which household wastes are discharged (hereinafter referred to as "household waste producers") shall either dispose of such wastes himself in a manner that can avoid any harm to conservation of the living environment or reduce the quantity of wastes, as may be prescribed by the appropriate Government.

(*2*) Every household waste producer shall separate the household wastes which he is unable to dispose of himself, under sub-section (*1*), from other wastes and shall store such wastes separately according to the types, nature and state as may be prescribed by the appropriate Government.

(*3*) Any household waste producer who discharges the food wastes specified by the Union Ministry of Environment, Forest and Climate Change (including wastes of agricultural, marine, and livestock products; hereinafter the same shall also apply) shall submit a plan for reducing the production of such food wastes and a report on the results of disposal of such wastes to the appropriate Government, make and keep records of the quantity of wastes generated, the results of disposal, and comply with the rules prescribed by the appropriate Government to reduce the production of food wastes.

CHAPTER VI

COMMERCIAL WASTE DISPOSAL

Duties of commercial waste producers.

16. (*1*) Any business premises that discharge wastes from place of business (hereinafter referred to as "commercial waste producers") shall comply with the following provisions:—

(*a*) all wastes generated from each place of business shall be properly disposed of;

(*b*) the production of commercial wastes shall be minimized by installing waste minimization in a manufacturing process, developing technology, recycling wastes, and in any other way; and

(*c*) a commercial waste producer who intends to commission someone to provide him with the services of collection, transportation, and disposal of wastes under sub-section (*1*) of section 17 shall ascertain as to whether the commissioned person has the capability to provide the services of collection, transportation, and disposal of such wastes in compliance with the standards under section 13 before such commissioning:

Provided, that the foregoing provisions shall not apply in case where a person who has installed and operates waste disposal facilities under section 4 or 5 and commissioned to provide such services.

(*2*) The commercial waste producers specified by the Union Ministry of Environment, Forest and Climate Change shall submit to the local authority a report on the types and quantity of commercial wastes generated as prescribed by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*3*) If a commercial waste producer transfers his business to another person or dies, or a corporation discharging commercial wastes is merged into another corporation, the transferee or successor, or the corporation surviving the merger or the corporation newly established as a consequence of the merger shall succeed to the rights and obligations relating to such commercial wastes.

Disposal of commercial wastes.

17. (*1*) Every commercial waste producer shall either dispose of wastes generated from his place of business by him or commission the disposal of such wastes to a person who has a license for a waste management business under sub-section (*3*) of section 21, a person who

has installed and operates a waste disposal facility under section 4 or 5, or a person who has completed the registration of a business of discharging wastes into the sea.

(*2*) No commercial waste producer who intends to commission a business operator under section 21 to dispose of commercial wastes may attempt to commission such operator to perform such disposal at any price lower than the minimum price publicly notified by the Union Minister of Environment, Forest and Climate Change for waste disposal pursuant to section 18.

(*3*) Two or more commercial waste producers as specified by the Union Ministry of Environment, Forest and Climate Change may collectively collect, transport or dispose of wastes generated from their places of business, as may be prescribed by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*4*) In commercial waste produce establishments a joint operating organization may appoint one of them as the representative of such joint operating organization and it shall be deemed to be jointly install and operate waste disposal facilities.

Pricing of disposal of commercial wastes.

18. The Union Ministry of Environment, Forest and Climate Change may, if deemed necessary for properly disposing of wastes, determine and notify the minimum and maximum prices for disposal of such wastes considering the cost for such disposal.

CHAPTER VII

WASTE IMPORT AND EXPORT

Report on waste import or export.

19. (*1*) A person who intends to import or export waste as specified and prescribed by the Union Ministry of Environment, Forest and Climate Change report it to the appropriate Government along with documents stating matters such as the types and quantity of wastes and plans for disposal.

(*2*) In order to change major matters prescribed by the Union Ministry of Environment, Forest and Climate Change among matters reported under sub-section (*1*) of section 19, a report of change shall be filed up.

Disposal of Imported Waste.

20. (*1*) A person who has filed an import report under sub-section (*1*) of section 19, or a person who has obtained permission for import under the Act shall dispose of such imported wastes (hereinafter referred to as "imported wastes") by himself or commission the disposal of such waste to a person falling any of the following:—

(*a*) a person who has set up and operates facilities under section 4 or section 5;

(*b*) a person who has obtained a license for waste management business; and

(*c*) a person who has reported on waste recycling.

(*2*) A person who transports imported wastes shall always carry documents of import report under sub-section (*1*) of section 19 and prints-out of matters concerning the delivery and receipt of wastes under sub-section (*2*) with him whenever he transports such wastes, and show them to the competent public officials upon request.

(*3*) A person who transports, stores, or disposes of imported wastes shall transport, store, or dispose of them in accordance with standards and methods of commercial wastes among those standards and methods of waste disposal pursuant to section 13.

(*4*) No imported wastes shall be exported in the same state or condition as it was imported.

CHAPTER VIII

WASTE MANAGEMENT BUSINESS

Waste management businesses.

21. (*1*) Any person who intends to engage in the collection, transportation, or disposal of wastes (hereinafter referred to as "waste management business") and wishes to treat controlled wastes shall submit a waste management plan to the Union Ministry of Environment,

Forest and Climate Change, while such person who wishes to handle any wastes other than controlled wastes shall submit such plan to the local authority, as may prescribed by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*2*) The Union Ministry of Environment, Forest and Climate Change or the local authorities, as the case may be, shall examine a waste management plan submitted under sub-section (*1*) of section 21 pursuant to each of the following matters, and notify a person who has submitted such plan the acceptability thereof:—

(*a*) whether a person who has submitted such plan (including an officer, in case of a corporation) falls under reasons for disqualification under section 22;

(*b*) whether the location of waste disposal facilities violates other Acts;

(*c*) whether facilities, equipment or technical capability according to a waste management plan meets criteria for permission under sub-section (*3*); and

(*d*) impact on environment around neighborhood, such as reservoirs, resulting from the building and operation of waste disposal facilities.

(*3*) A person who has received a notice of acceptability pursuant to sub-section (*2*) shall, within two years (six months, in cases of waste collecting or transporting business; three years, in cases of a waste disposal business that requires incinerators and landfill facilities) from the date of receipt of such notification, prepare such facilities, equipment, and technical capability in conformity with the standards prescribed by rules framed and shall thereby obtain a license for each business type from the appropriate authority:

Provided that a person who intends to engage in a waste management business for handling controlled wastes shall obtained a license from the Union Ministry of Environment, Forest and Climate Change.

(*4*) The appropriate authority may extend a period of submitting an application for permission within the extent of one year, depending on applications, for persons who have failed to file application forms within the period referred to in sub-section (*3*) due to a natural disaster or other unavoidable circumstances.

(*5*) The types and scope of waste management business shall be classified as follows—

(*a*) waste collection and transportation business: A business collecting wastes and transporting it to a disposal facility;

(*b*) interim waste disposal business: a business specializing in interim disposal such as incineration, physical, chemical or biological treatments, or other methods approved and publicly announced by the Union Ministry of Environment, Forest and Climate Change as safe ways of interim treatment of waste (excluding the recycling of household wastes) with facilities for interim treatment of wastes;

(*c*) terminal waste disposal business: a business specializing in final disposal of wastes such as landfills (excluding discharging into the sea) with facilities for final disposal of wastes; and

(*d*) general waste management business: a business performing interim disposal and terminal disposal of wastes with facilities for waste disposal.

(*6*) The appropriate authority may, when grants a license under sub-section (*3*), add such necessary conditions as prescribed by rules:

Provided that the appropriate authority may add a condition that restricts the business territory to a license for a business collecting and transporting household wastes.

(*7*) Any person to whom a license for a waste management business under sub-section (3) has been granted (hereinafter referred to as a "licensed waste management business operator") shall neither allow another person to collect, transport or dispose of wastes under his name or trade name nor lend the license to another person.

(*8*) No waste management business operator shall accept commissioned waste management at a price higher or lower than the maximum or minimum price fixed under section 18 for waste disposal, nor store wastes in excess of the quantity and period of time prescribed by rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*9*) Any person who intends to engage in a business collecting, transporting, or disposing of medical refuse shall install and operate such facilities, equipment, and place of business as required for collecting, transporting, or disposing of such wastes separately from other wastes.

(*10*) Whenever a person holding a licence under sub-section (*3*) wishes to amend any important matter of the licence as specified by rules framed by the Union Ministry of Environment, Forest and Climate Change, he shall obtain permission for such amendment.

(*11*) Any person who amends any matter under sub-section (*10*), shall also file a report on amendments, if such amendments involves any matter other than an important matter specified by rules framed by the Union Ministry of Environment, Forest and Climate Change.

Reasons for disqualification.

22. A person shall not be granted a licence for a waste management business, if—

(*a*) such person is a minor, or an incompetent, or quasi-incompetent person;

(*b*) such person is or who has been declared bankrupt, but not yet reinstated;

(*c*) a person in whose case two years time has not yet elapsed since an execution of imprisonment was completely fulfilled, or finally and conclusively exempted;

(*d*) a person who was sentenced to a suspended sentence of imprisonment or heavier punishment and is still under the period of suspension;

(*e*) a person in whose case two years have not yet elapsed since his licence for a waste management business was revoked; or

(*f*) it is a body corporate where an officer who falls under any provision of sub-section (a) to (d) is employed.

Revocation of licence.

23. (*1*) The appropriate Government shall revoke licence of a waste management business operation, if—

(*a*) the licence has been obtained by false or other fraudulent means;

(*b*) he is disqualified pursuant to section 22(*a*) to (*d*) or (*f*); and

(*c*) he has operated business while the business is suspended.

(*2*) The appropriate Government may revoke its licence or order suspension of the whole or a part of business, specifying a period within six months if a waste management business operator—

(*a*) disposes of, buries or incinerates commercial wastes in violation of sub-section (*1*) or (*2*) of section 8;

(*b*) fails to conform to standards or methods of collection, transport, storage, or processing in violation of section 13;

(*c*) conducts business that exceeds the extent of types or details of business under sub-section (*5*) of section 21;

(*d*) violates conditions under sub-section (*6*) of section 21;

(*e*) allows other persons to use his name or title of business and collect, transport, or dispose of wastes, or borrowed his licence to other persons, in violation of sub-section (*7*) of section 21;

(*f*) stores waste or violated rules, in violation of sub-section (*8*) of section 21;

(*g*) fails to set up and operate separate facilities, equipment or the place of business to collect, transport, or dispose of waste, in violation of sub-section (*9*) of section 21;

(*h*) changes matters that require permission or report without obtaining permission for changes or filing a report on changes under sub-section (*10*) of section 21;

(i) fails to undergo inspection in violation of sub-section (*1*) or (*2*) of section 25;

(*j*) operates waste disposal facilities, not meeting standards for its maintenance under sub-section (*1*) of section 26;

(*k*) fails to cnform to orders of correction or suspension of use under sub-section (*4*) of section 26;

(*l*) fails to conform to orders of close down under sub-section (*5*) of section 26;

(*m*) fails to conform to orders of measure or inspection under sub-section (*6*) of section 26;

(*n*) fails to report on the succession of rights or obligations under sub-section (*2*) of section 27; and

(*o*) fails to open business within one year from the date of permission obtained, or has such business closed for one year or more consecutively without justifiable grounds.

CHAPTER IX

WASTE DISPOSAL FACILITIES

Installation of waste disposal facilities.

24. (*1*) Every waste disposal facilities shall be installed in conformity with the standards prescribed by rules framed by the Union Ministry of Environment, Forest and Climate Change but any waste incineration facility shall not be installed or operated, unless it conforms to the size prescribed by rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*2*) A person who installs a waste disposal facility shall, when he intends to start operating the facility after the completion of the installation works, submit a report thereon to the head of the competent administrative agency.

Inspection of waste disposal facilities.

25. (*1*) A person who has completed the installation of a waste disposal facility specified by rules framed by the Union Ministry of Environment, Forest and Climate Change shall have it inspected by an inspection agency designated by rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*2*) A person who has installed and operates a waste disposal facility shall have it inspected by an inspection agency under sub-section (*1*) of section 25 at a regular interval prescribed by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*3*) A waste disposal facility shall be deemed to have successfully passed a periodic inspection if it has undergone a technical examination within the period of time set for such inspection.

Management of waste disposal facilities.

26. (*1*) Any person who has installed and operates a waste disposal facility shall maintain and manage such facility in compliance with the guidelines for the management as prescribed in the rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*2*) Any person who has installed and operates a waste disposal facility shall take measurements of pollutants discharged from the waste disposal facility or arrange for a measuring institution specified in the rules framed by the Union Ministry of Environment, Forest and Climate Change and shall submit a report on the results thereof to the appropriate Government.

(*3*) Any person who has installed and operate a waste disposal facility shall examine the impact that the installation and operation of such waste disposal facility has on its surroundings every three years, and shall submit a report on the results thereof to the appropriate Government.

(*4*) If a waste disposal facility fails to meet the standards for installation or the standards for management in its installation, maintenance or management, the appropriate Government may order for improving the facility within a period of time prescribed in rules framed by the Union Ministry of Environment, Forest and Climate Change or suspend the operation of such facility.

(*5*) If a person to whom an order to improve or suspend the operation has been issued pursuant to sub-section (*4*) fails to perform as ordered or if it is found that such person is unable to perform as ordered, the appropriate Government may order him to close down the facility permanently.

(*6*) If a person who has installed and operates a waste disposal facility fails to perform his duty to measure pollutants in accordance with sub-section (*2*) or fails to examine its impact on surroundings in accordance with sub-section (*3*), the appropriate Government may order the person to take such measurement of pollutants or to examine such impact within a period of time prescribed by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*7*) The pollutants that shall be measured in accordance with sub-section (*2*), the cycle of such measurements, the reporting on the results thereof, and other necessary matters shall be prescribed by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*8*) The method and scope of assessments made under sub-section (*3*), the report on the results thereof, and other necessary matters shall be prescribed by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

Succession of rights and obligations.

27. (*1*) Where a person who holds a lincence for a waste management business or who has obtained approval for the installation of a waste disposal facility or has filed a report thereon transfers the waste management business or the waste disposal facility to another person, where such person dies, or where the corporation has been merged with another corporation if it is a body corporate, the transferee, successor, or the corporation surviving the merger or newly established as a consequence of the merger shall succeed to the rights and obligations under such licence, approval, or report.

(*2*) A person who has succeeded to the rights and obligations under sub-section (*1*) shall report the facts to the appropriate Government as may be prescribed by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

CHAPTER X

GUIDANCE OVER WASTE MANAGEMENT BUSINESS OPERATORS

Technical manager.

28. (*1*) Any person who has installed or manages a waste disposal facility shall employ a technical manager who shall take charge of technical affairs relating to the maintenance and management of such facility (including cases where the person himself holds a qualification as technical manager and takes charge of such technical management) or shall make a contract on technical management services with a person who is as capable of taking charge of technical management.

(*2*) Necessary matters concerning the qualifications such as technical managers or contracts on technical management services, under sub-section (*1*) shall be prescribed by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

Reporting on shutdown or closure of business.

29. Any waste management business operator or a person who has completed a report shall, when he temporarily shuts down, permanently closes down, or resumes his business, file a report on such facts with the competent administrative agency for the related licensing or reporting as prescribed by rules framed by the Union Ministry of Environment, Forest and Climate Change.

Reporting and inspection.

30. (*1*) The appropriate Government may require the persons concerned to submit such report or data as may prescribed by rules framed by the Union Ministry of Environment, Forest and Climate Change within the extent necessary for the enforcement of this Act, and may also assign public officials in charge to enter an office or a place of business of such persons to inspect the documents, facilities, equipment, or such therein.

(*2*) Every public official who enters an office or a place of business for the purpose of the inspection under sub-section (*1*) shall carry with him an identity card and show it to the persons concerned.

Establishment of mutual aid association for waste management business and contribution.

31. (*1*) Waste management business operators specializing in disposal of commercial wastes and the persons who has filed a report on recycling of wastes may establish a mutual aid association for the waste management business (hereinafter referred to the "Association") in order to guarantee the performance of disposal of abandoned wastes.

(*2*) The Association shall be a legal entity.

(*3*) The Association shall be duly formed upon the completion of the registration of its establishment with the registry office having jurisdiction over its principal place of business.

(*4*) Each member of the Association shall pay such contribution as is required.

(*5*) The guidelines for computing the contribution under sub-section (*4*), the procedure for the payment of such contribution, and other necessary matters shall be stipulated by the Association's articles of association.

CHAPTER XI

PROMOTION AND RECYCLING OF WASTE RESOURCES

Basic principles of recycling of waste resources.

32. (*1*) Any person who manufactures, processes, imports, sells, consumes materials, goods, or does construction works shall control the generation of wastes to the utmost extent and mitigate any harm caused thereby.

(*2*) The generated wastes shall be recycled or properly treated in accordance with the following principles—

(*a*) wastes are required to be reused or used after regeneration in whole or in part to the utmost extent;

(*b*) wastes difficult to reuse or use after regeneration in whole or in part are required to be used for the purposes of energy recovery;

(*c*) wastes not possible of reuse, nor used after regeneration or energy recovery are required to be properly treated in a manner which minimizes their impact on the environment.

Duties of appropriate Government.

33. (*1*) The Central Government shall devise policies to facilitate the recycling of resources.

(*2*) The appropriate Government shall assume the duty to devise and implement policies for the facilitation of the recycling of resources, taking into account the characteristics of the areas under their jurisdiction in accordance with the national policies devised under sub-section (*1*).

Duties of businesses.

34. (*1*) Every business owner shall endeavour to be able to observe the basic principles under section 32 and cooperate in policies specified by the appropriate Government to attain the purposes of this Act.

(*2*) A person who manufactures, imports or sells goods (hereinafter referred to as "manufacturer, etc.") shall prevent raw materials, goods from becoming wastes and if they have become wastes, endeavour to recycle or properly treat them.

(*3*) A business that places an order for construction works shall endeavour to conserve resources, use more recycled goods and recycle by-products generated in such construction works.

Duties of every person.

35. Every person shall endeavour to facilitate the recycling of resources through discharging recyclable resources after separation, preferentially purchasing recycled goods and preventing them from using disposable goods, and at the same time, cooperate in measures taken by the appropriate Government and businesses to attain the purposes of this Act.

Formulation of basic plans for recycling of waste resources.

36. (*1*) The Union Ministry of Environment, Forest and Climate Change shall formulate a basic plan for the recycling of resources (hereinafter referred to as "basic plan") every five years in consultation with the heads of central administrative organs concerned, the State Government and the local authority heads.

(*2*) A basic plan referred to in sub-section (*1*) shall include the matters in each of the following sub sections:

(*a*) basic directions and goals for the facilitation of recycling of resources;

(*b*) matters concerning the conditions of the recycling of resources, such as the generation and recycling of wastes and the state of recycling industries;

(*c*) matters concerning setting the goal of recycling of resources;

(*d*) plans for raising funds needed to achieve goals for the recycling of resources and investment plan;

(*e*) other matters necessary for the facilitation of recycling of resources.

(*3*) the heads of the relevant central administrative organs and the appropriate Government shall formulate an annual action plan including investment of a basic plan (hereinafter referred to as "action plan").

(*4*) The Union Ministry of Environment, Forest and Climate Change shall notify the action plan.

(*5*) The heads of appropriate Government shall draw up an execution plan for the recycling of resources, taking into account the characteristics of the areas under their jurisdiction and submit it to the District Collector and implement it.

CHAPTER XII

FACILITATION OF RECYCLING OF WASTE RESOURCES

Saving of resources.

37. (*1*) The Central Government may recommend matters necessary for the saving of resources, control of generation of wastes and recycling of wastes to producers and consumers or guide them.

(*2*) The concerned ministries may request the heads of the relevant central administrative organs for cooperation in the dissemination of equipment and technology for saving of resources and control of generation of wastes.

Assessment of recyclability of resources of goods, etc.

38. The appropriate Government shall develop measures necessary to mitigate the impacts of the waste goods on the environment and shall extend, technical support to manufacturers to enable them to make self-assessment of the waste matters in each of the following categories—

(*a*) in cases where goods have become wastes, matters concerning the recycling and proper treatment thereof;

(*b*) in cases where goods have become wastes, matters concerning the weight and volume thereof;

(*c*) matters concerning harmful substances contained in goods;

(*d*) durability of goods; and

(*e*) any other matter relevant for assessment information.

Control of generation of packing wastes.

39. (*1*) A manufacturer of goods shall restrict the generation of packing wastes and facilitate the recycling of packing wastes by prescribing—

(*a*) standards for the quality of packing materials and methods of packaging (referring to the rate of packing space and the frequency of packing; hereinafter the same shall apply); and

(*b*) standards for the annual reduction of packing materials made of synthetic resin (excluding goods made of biodegradable resin; the same shall apply hereinafter in this section).

(*2*) The Union Ministry of Environment, Forest and Climate Change shall establish detailed standards for the quality of packing materials of goods, method of packing and standards for the annual reduction of packing materials made of synthetic resin under sub-section (1) in consultation with the concerned Ministries.

Control of use of disposable goods, etc.

40. Any businessman who runs a restaurant, a department store or other types of business as prescribed by rules framed by the Union Ministry of Environment, Forest and Climate Change shall control the use of disposable goods as prescribed by the rules and shall not provide disposable goods without compensation:

Provided that disposable goods made of biodegradable may be provided without compensation.

Consideration of recyclability of resources in development projects, etc.

41. (*1*) The appropriate Government shall devise measures necessary to enable the performer of a urban development project or any other development project to facilitate the recycling of resources prior to the implementation of such project, taking into consideration the following—

(*a*) selection of structures and materials to facilitate the recycling of resources at the time of planning and designing a development project;

(*b*) use of recycled aggregates at the time of carrying out a development project; and

(*c*) recycling and proper treatment of wastes generated by development projects.

(*2*) The appropriate Government may advise a business person engaging in business of constructing apartment houses or accommodation facilities to furnish storage spaces, such as built-in closets, or furniture or fixtures of built-in type in order to restrict the generation of wastes.

Waste charges.

42. (*1*) The Union Ministry of Environment, Forest and Climate Change shall, in order to restrict the generation of wastes and prevent the waste of resources, impose and collect expenses incurred from the treatment of the wastes of goods, materials and containers which contain substances mentioned in sub-clause (*a*) to (*c*) or are difficult to recycle or likely to cause problems in the management of wastes on and from the manufacturer or importer thereof—

(*a*) specified hazardous air pollutants;

(*b*) specified hazardous water pollutants; and

(*c*) poisonous substances.

(*2*) The criteria for the calculation of the amount of expenses to be borne by a manufacturer or importer under sub-section (*1*) (hereinafter referred to as "waste charges"), time of payment, procedure for payment and other necessary matters shall be determined by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*3*) If a person fails to pay waste charges within prescribed time limit, the appropriate Government shall order him to make the payment within a further period of thirty days and, in such cases, additional dues equivalent to 5/100 of waste charges in arrears shall be imposed.

(*4*) The waste charges and additional dues under sub-section (*3*) shall be utilized exclusively for environment improvement under this Act.

CHAPTER XIII

FACILITATION OF SEPARATE COLLECTION AND REUSE OF WASTE RESOURCES

Separate storage by waste dischargers, etc.

43. (*1*) Every owner, occupant or manager of land or building shall recycle recyclable wastes discharged from the land or buildings in accordance with the criteria determined by the rules framed by the Union Ministry of Environment, Forest and Climate Change or store them separately by kind, character and condition to enable them to be recycled.

(*2*) The appropriate Government may order a waste discharger who fails to observe the criteria under sub-section (*1*) to take necessary measures to follow rules.

Separate collection of recyclable waste resources.

44. (*1*) The Union Ministry of Environment, Forest and Climate Change may establish guidelines for classification, storage and collection for the separate collection of recyclable resources in consideration of the quantity of wastes generated and conditions of recycling in order to efficiently utilize recyclable resources.

(2) The appropriate Government shall provide assistance to local authority under their jurisdiction for the efficient separate collection of wastes and they shall investigate the quantity each of generation and separately collected recyclable resources each year in accordance with the guidelines set by the rules framed by the Union Ministry of Environment, Forest and Climate Change and publish the result thereof.

(*3*) The appropriate Government shall take measures necessary for separate collection in consideration of regional circumstances, such as the installation of facilities or containers to store recyclable resources in accordance with the guidelines under sub-section (*1*).

Establish-ment and operation of recycling centers, etc.

45. *(1)* The appropriate Government shall establish and operate facilities necessary to facilitate the exchange of second-hand goods and recycling of reusable bulky wastes (hereinafter referred to in this section as "recycling centres").

(2) The appropriate Government shall set up at least one recycling centre in each Panchayat, and one recycling centre shall be installed and operated additionally wherever the population exceeds two lakh.

(3) The appropriate Government shall, when collecting, sorting and treating bulky wastes, utilize recycling centres preferentially.

(4) The appropriate Government may provide persons who install and operate recycling centers with financial and technical support.

Separate discharge mark.

46. A manufacturer of goods and packing materials is required to put a separate collection mark for the facilitation of recycling of wastes and shall put a separate discharge mark on such goods and packing materials in accordance with the guidelines determined and announced by the Union Ministry of Environment, Forest and Climate Change.

Facilitation of reuse of parts, etc.

47. (*1*) A manufacturer of goods shall, when distributed goods have become wastes, endeavour to recover such goods or parts to use them for the manufacture of new goods or make them reusable.

(2) The appropriate Government shall take necessary measures, such as provision of technical assistance to enable manufacturers to achieve the objectives under sub-section (1).

CHAPTER XIV

FACILITATION OF WASTE RECYCLING BUSINESSES

Obligation of manufacturer, etc. to recycle.

48. (*1*) A manufacturer or importer of the goods and packing materials, of which recovery and recycling can be facilitated through the improvement of the quality of materials, structure or recovery system in the stages of production and distribution or which generate a large quantity of wastes after use shall recover the wastes of such goods and packing materials for recycling or pay allotted charges to the Recycling Business Mutual Aid Association.

(*2*) A producer who is duty bound to recycle or a person entrusted with recycling work by the producer shall recycle wastes in accordance with the methods of and criteria for recycling each of goods and packing materials as determined by rules framed by the Union Ministry of Environment, Forest and Climate Change.

Mandatory recycling ratio.

49. (*1*) The Union Ministry of Environment, Forest and Climate Change shall publish the ratio of the quantity to be recycled (hereinafter referred to as "mandatory recycling ratio") among the annual quantity shipped out of factory by the type of goods and packing materials, taking into account the quantity of goods and packing materials shipped out of factory, the quantity of separate collection of recyclable resources separately collected, records of recycling, conditions of recycling, in consultation with the Ministries concerned.

(*2*) The standards for calculating the quantity to be recycled by a producer obligated to recycle pursuant to the mandatory recycling ratio (hereinafter referred to as "mandatory recycling quantity") shall be prescribed by the rules, taking into account the quantity shipped out of factory, the mandatory recycling ratio each of goods and packing materials.

Submission of plan for fulfillment of obligation to recycle, etc.

50. (*1*) A producer obligated to recycle shall submit to the Union Ministry of Environment, Forest and Climate Change a plan for the fulfillment of the obligation to recycle and obtain the approval of the Ministry thereon under conditions prescribed by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*2*) A person who has obtained approval for a plan for the fulfillment of the obligation to recycle under sub-section (*1*) shall submit a report on the outcome of fulfilling the obligation to recycle, including materials to verify the records of recycling to the concerned authority authorized under the Union Ministry of Environment, Forest and Climate Change under conditions prescribed by the rules.

Collection of recycling dues, etc.

51. (*1*) The appropriate Government shall, when a producer obligated to recycle fails to carry out the obligation under section 48 or the Recycling Business Mutual Aid Cooperatives under section 58 fails to vicariously fulfil the obligation of cooperative members to recycle, impose and collect the expenses incurred for the recycling of the quantity of wastes not recycled among the mandatory recycling quantity, adding to it an amount of money equivalent to 30/100 of the expenses (hereinafter referred to as "recycling dues") on and from the producer obligated to recycle or the Recycling Business Mutual Aid Cooperatives.

(*2*) The expenses required for the recycling of wastes, which become the basis for calculating recycling dues, time and procedure of payment thereof and other necessary matters shall be determined by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*3*) Recycling dues and additional charges shall become the revenue of the special accounts for environmental improvement under the Act on the Special Accounts for Environmental Improvement.

Usage of waste charges and recycling dues.

52. The waste charges and recycling dues shall be used for the following purposes—

(*a*) assistance for waste recycling projects and installation of waste disposal facilities;

(*b*) research and technology development for the efficient recycling and reduction of wastes;

(*c*) assistance for recovery, recycling, disposal of wastes by local Government;

(*d*) purchase and reserve of recyclable resources;

(*e*) assistance for projects for facilitation of recycling;

(*f*) granting collection expenses of waste charges (including additional charges) or recycling dues (including additional charges); and

(*g*) others, such as assistance for projects necessary to facilitate recycling of resources.

Installation and operation of energy recovery facilities, etc.

53. The facilities to recover energy (hereinafter referred to as "energy recovery facilities") shall be installed and operated to meet the standards for energy recovery when they are inspected pursuant to the method and procedure of inspection announced by the Union Ministry of Environment, Forest and Climate Change in consultation with other Ministries.

Matters to be observed by designated by-product discharging businesses.

54. (*1*) A business that discharges designated by-products (hereinafter referred to as "designated by-product discharging business") shall comply with the guidelines jointly published by the Union Ministry of Environment, Forest and Climate Change and the Ministries concerned in accordance with the basic directions and procedures prescribed by the rules.

(*2*) The guidelines referred to in sub-section (*1*) shall include the following matters:—

(*a*) matters concerning the methods of recycling pursuant to the usage of designated by-products;

(*b*) matters concerning the formulation and implementation of plans for the facilitation of use of designated by-products; and

(*c*) matters concerning the separation or crushing of designated by-products.

Facilities to use solid fuels composed of wastes.

55. A person who uses solid fuels made of wastes among recycled goods (hereinafter referred to as "solid fuels") shall use them in the facilities prescribed by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

Observance, etc. by user and manufacturer of solid fuels.

56. (*1*) Any person who intends to manufacture and supply solid fuels shall obtain authentication on the quality and grade of solid fuels from an organization (hereinafter referred to as "authentication organization") designated by the Union Ministry of Environment, Forest and Climate Change.

(*2*) Any person who manufactures or uses solid fuels shall comply with the rules to be observed, such as the quality standards, maintenance and management of grade, management of facilities for manufacture, storing and utilization.

(*3*) The details on procedures of authentication on the quality and grade, standards for quality and grade, examination and analysis for authentication, and the rules to be observed pursuant to sub-section (*2*) shall be stipulated by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

Fees collected by the authentication organization.

57. The authentication organization may collect fees from persons who apply for authentication on the quality and grade of solid fuels in accordance with the standards and method of calculating fees stipulated by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

CHAPTER XV

WASTE RECYCLING BUSINESS MUTUAL AID COOPERATIVES

Establishment of waste recycling business mutual aid cooperatives.

58. (*1*) A producer who is duty bound to recycle may establish waste recycling business mutual aid cooperatives by goods and packing materials (hereinafter referred to as the "Cooperatives") to perform the obligation under sub-section (*1*).

(*2*) Each Cooperative shall be a corporation.

(*3*) The Cooperatives shall be established by registering establishment thereof at the location of its principal office.

Procedure for authorizing establishment of cooperatives, etc.

59. Any person who intends to establish a Cooperative shall obtain authorization of the Union Ministry of Environment, Forest and Climate Change by submitting an application in such form and manner for the purposes of authorization along with the following:—

(*a*) the articles of association of the corporation, including matters concerning the purpose, scope of business, Cooperative members, allotted charges, and others concerning the operation of the Cooperative are included;

(*b*) the agreement of producers obligated to recycle affiliated with the Cooperative on participation;

(*c*) the mandatory recycling quantity of each cooperative member;

(*d*) statement of the Cooperative's recycling facilities (limited to Cooperatives which have their own recycling facilities); and

(*e*) business plan to vicariously perform the obligation to recycle.

CHAPTER XVI

ESTABLISHMENT OF FOUNDATION FOR FACILITATION OF RECYCLING OF WASTE RESOURCES

Financial assistance, etc. for fostering of waste recycling industries.

60. *(1)* The appropriate Government or local authority, as the case may be, may subsidize or lend funds or arrange loans needed for the recycling of waste resources to a person who conducts business referred to in clauses (*a*) to (*g*)—

(a) a business to install recycling facilities;

(b) a resource recycling business conducted by designated recycling businesses and designated by-product discharging businesses;

(c) the installation and operation of energy recovery facilities;

(d) a business to build a recycling complex;

(e) a recycling business conducted by those who have obtained permission for intermediate waste disposal business or general waste disposal business and persons reporting waste recycling;

(f) a business of research and technical development to facilitate recycling of resources; and

(g) any business determined by the rules framed by the Union Ministry of Environment, Forest and Climate Change, which is necessary for the fostering of recycling industries other than businesses specified in clauses (*a*) to (*f*).

(2) The appropriate Government may preferably provide a recycling business with funds necessary for facilities, research, and technical development, from funds for:—

(a) building industrial foundations for recycling waste resources; and

(b) development and industrial foundation of small and medium enterprises dealing with recycling waste resources.

Building of waste recycling complexes, etc.

61. (*1*) The appropriate Government may build waste recycling complexes in order to foster the recycling industry and sharpen the competitiveness of the recycling industry.

(*2*) The building of waste recycling complexes as referred to in sub-section (*1*) shall comply with the procedure for designation and development of national or local industrial complexes under the relevant statute regarding it.

(*3*) Matters necessary for the building, management and operation of waste recycling complexes shall be determined by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

Subsidies for building of waste recycling complexes.

62. In cases where a local authority or a person prescribed by the rules builds a waste recycling complex under sub-section (*1*), section 61, the State Government may subsidize the expenses needed to build such waste recycling complex.

Installation of public waste recycling infrastructure.

63. *(1)* The appropriate Government shall install facilities capable of collecting, storing, sorting, and treating bulky wastes and recyclable waste resources prescribed by the rules.

(2) The appropriate Government may provide financial and technical support to those who install the facilities referred to in sub-section (*1*), and may offer advice necessary to increase the efficiency of the installation and operation of such facilities.

Installation of facilities for facilitation of waste recycling, etc.

64. *(1)* The appropriate Government may establish and operate a pre-treatment facility in order to recover recyclable resources to the utmost extent through mechanical treatment processes, such as crushing, grinding and sorting or biological treatment processes, such as aerobic or anaerobic decomposition prior to the treatment of wastes by means of incineration or reclamation.

(*2*) The appropriate Government may, if deemed necessary to take measures to facilitate waste recycling prior to the final treatment of wastes generated.

Provision of information on recycling of waste resources, etc.

65. (*1*) The Union Ministry of Environment, Forest and Climate Change shall endeavor to provide people with knowledge and information on the recycling of waste resources.

(2) The Union Ministry of Environment, Forest and Climate Change may generate and disseminate knowledge and information on the recycling of waste resources and establish and operate a waste resources recycling information system to facilitate the generation and dissemination of knowledge and information on the recycling of waste resources.

(3) The Union Ministry of Environment, Forest and Climate Change may demand the head of a relevant central administrative organ to submit data necessary for the establishment and operation of a waste resources recycling information system.

Establishment of voluntary agreement.

66. (*1*) The Union Ministry of Environment, Forest and Climate Change or the head of a local Government may enter into an agreement with a waste discharging business, recycling business, manufacturer, or organization comprised thereof (hereinafter referred to as "voluntary agreement") in order to control the generation of wastes and facilitate waste recycling.

(*2*) The necessary matters concerning the objective of a voluntary agreement, method and procedure of fulfillment shall be determined by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*3*) The Union Ministry of Environment, Forest and Climate Change or the head of a local Government may provide a person who has entered into a voluntary agreement under sub-section (*1*) with assistance necessary for the fulfillment of such voluntary agreement.

International cooperation for facilitation of recycling of waste resources.

67. (*1*) The appropriate Government shall devise necessary measures, such as exchange and provision of information and holding international conferences for the promotion of international cooperation for facilitation of recycling of waste resources.

(2) The Union Ministry of Environment, Forest and Climate Change may promote all or any of the following projects to promote international cooperation under sub-section (1) for—

(a) investigation and research for international cooperation related to recycling of waste resources;

(b) international exchange of manpower and information related to recycling of waste resources;

(c) holding exhibitions and seminars related to recycling of waste resources;

(d) development of overseas markets for the fostering of waste recycling industries; and

(e) any other project deemed necessary for the promotion of international cooperation.

CHAPTER XVII

PENAL PROVISIONS IN RELATION TO WASTE MANAGEMENT

Punishment for dumping commercial waste.

68. Any person who dumps or buries commercial wastes in violation of sub-section (*1*) or (*2*), of section 8 shall be punished with imprisonment for a term which may extend upto five years or fine or with both.

Punishment for operating without licence, obtained licence by fraudulent means, etc.

69. Any person who—

(*a*) operates a waste management business without a licence;

(*b*) obtains a licence for a waste management business by fraudulent or other unlawful means; or

(*c*) does not comply with an order of closure,

shall be punished with imprisonment for a term which may extend upto five years or fine or with both.

Offences inviting punishment of three years imprisonment or fine or both.

70. Any person who—

(*a*) buries wastes in violation of section 13 or sub-section (*3*) of section 20;

(*b*) disposes of commercial wastes or imported wastes, in violation of sub-section (*1*) of section 17 or section 20;

(*c*) exports imported wastes as the same state or condition as they were imported, in violation of sub-section (*4*) of section 20;

(*d*) alters an item contained in a licence for a waste management business without an amended licence under sub-section (*10*) of section 21;

(*e*) carries on business during the business suspension period under section 23;

(*f*) installs a waste disposal facility in violation of sub-section (*1*) of section 24;

(*g*) operates a waste disposal facility without an inspection or a confirmation on conformity in violation of any provision of sub-section (*1*) or (*2*) of section 25; or

(*h*) fails to comply with an order of improvement under sub-section (*4*) of section 26 or who has violated an order to suspend the operation,

shall be punished wiht imprisonment for a term which may extend upto three years of fine or with both.

Offences inviting punishment of two years imprisonment or fine or both.

71. Any person who—

(*a*) contaminates the surrounding environment by collecting, transporting, keeping in storing, or disposing of wastes;

(*b*) fails to file a report or who has filed a false report;

(*c*) does not obtain verification or verification on changes, who has discharged, transported, or disposed of controlled waste in a manner different from that certified;

(*d*) fails to transmit information on the delivery and receipt of wastes to the electronic information processing center, failed to transmit it pursuant to the ways as prescribed by rules framed by the Union Ministry of Environment, Forest and Climate Change, or has transmitted false data to the center;

(*e*) carries out his business in deviation from the type and scope of business under sub-section (*5*) of section 21;

(*f*) breaches a condition under sub-section (*6*) of section 21;

(*g*) allows another person to use name or trade name in collection, transportation, or disposal of wastes or who has lent his licence to other person;

(*h*) stores wastes in violation of sub-section (*8*) of section 21;

(*i*) installs or operated a waste incineration facility, although it is prohibited from being installed, in violation of sub-section (*1*) of section 24;

(*j*) maintains and managed a waste disposal facility in a manner that does not conform to the guidelines for the management under sub-section 26(*1*) of section and has consequently contaminated the surrounding environment; and

(*k*) fails to comply with an order to take a measurement or make an assessment, shall be punished with imprisonment for a term which may extend upto two years or fine or with both.

Joint penal liability.

72. (*1*) If any representative, or an agent, an employee or any other worker of a legal entity commits an offence under any provision of section 68 to section 71 in connection with the business of the legal entity shall be punished with imprisonment for a term which may extend upto two years or fine or with both.

(*2*) If an agent, an employee, or any other servant of a private individual commits an offence under any provision of section 68 to section 71 in connection with the business of the private individual shall be punished with imprisonment for a term which may extend upto two years or fine or with both.

Fine for negligence.

73. (*1*) Any person who—

(*a*) collects, transported, kept in storage or disposed of wastes in violation of section 13;

(*b*) charges any price higher than the maximum price or any price lower than the minimum price prescribed for waste management, in carrying out commissioned waste management;

(*c*) a person who has failed to comply with the rules under sub-section (*8*) of section 21;

(*d*) maintains or managed a waste disposal facility in a manner that does not conform to the guidelines for such management or who has filed to take a measure or make an assessment of the pollutants or impacts on the surrounding area;

(*e*) fails to appoint a technical manager or has failed to make a contract for technical management services; and

(*f*) fails to submit a report within a prescribed time limit or has prepared and submitted a false report,

shall be punished with a fine which may extend upto ten lakh rupees.

(*2*) Any person who—

(*a*) commissions someone to provide him/her with a service without ascertainment;

(*b*) fails to perform his obligations to comply with the guidelines publicly notified;

(*c*) commissions someone to implement waste management at a price lower than the price prescribed for waste management;

(*d*) fails to transmit information on the delivery and receipt of waste to the electronic information processing center on time, or has transmitted false information to the center;

(*e*) make an amendment to any reported item without filing a report on such amendment;

(*f*) fails to carry documents, etc. with him or failed to generate it; and

(*g*) fails to file a report in violation of section 29,

shall be punished with a fine which may extend upto three lakh rupees.

(*3*) Any person who—

(*a*) dumps, buries or incinerates household wastes in violation of sub-section (*1*) or (*2*) of section 8;

(*b*) fails to comply with an order to take measures in violation of sub-section (*3*) of section 8;

(*c*) violates sub-section (*1*) or (*2*) of section 15;

(*d*) operates a facility without filing a report under sub-section (*2*) of section 24;

(*e*) a person who has failed to file a report under section 30 (*1*) or who has filed a false report; and

(*f*) a person who has rejected, interfered with, or evaded an access or inspection under sub-section (*1*) of section 30.

shall be punished with a fine which may extend upto one lakh rupees.

(*4*) The fine for negligence under sub-sections (*1*) to (*3*) of section 73 shall be imposed and collected by appropriate Government, as the case may be, prescribed by the rules framed by the Union Ministry of Environment, Forest and Climate Change.

(*5*) A person who dissatisfies with the disposition of a fine for negligence under sub-section (*4*) of section 73 may file an objection with the appropriate Government within thirty days from the date of which he is notified of the disposition.

(*6*) The appropriate Government shall, upon receiving an objection under sub-section (*5*) of section 73 from a person subject to the disposition of a fine for negligence, under sub-section (*5*) of section 73 notify the competent court of the objection without delay, and the court shall, submit the case to trial.

(*7*) If neither an objection is filed nor the fine for negligence is paid within the period under sub-section (*5*) of section 73, such fine for negligence shall be collected in accordance with the practices of the disposition on default of national or local taxes.

CHAPTER XVIII

PENAL PROVISIONS IN RELATION TO RECYCLING OF WASTE RESOURCES

Punishment for not submitting report or false report or evading investigation, etc.

74. Any person who fails to submit a report or data or has submitted a false report or false data and a person who has refuses, interferes with or evades entrance for investigation shall be punished with imprisonment for a term which may extend upto one year or fine which may extend upto five lakh rupees.

Joint penal liability.

75. (*1*) If any representative, agent, employee or any other worker of a corporation commits any violation under section 74 in relation to the business of the corporation, shall be punished with imprisonment for a term which may extend upto one year or fine which may extend upto five lakh rupees but a corporation shall also be punished with a fine which may extend upto rupees five lakh.

(*2*) If any representative, agent, employee or other worker of an individual commits any violation under section 74 in relation to the business of the individual, not only the offender shall be punished but the individual shall also be punished with imprisonment for a term which may extend upto one year or fine which may extend upto five lakh rupees.

Fines for negligence.

76. (*1*) Any person who—

(*a*) fails to abide by the standards for the quality of packing materials, method of packing, and goals of the annual reduction of packing materials made of synthetic resin for goods;

(*b*) uses, or offered for free disposable goods, in violation of section 40;

(*c*) fails to put a separate discharge mark or affixed a false mark;

(*d*) uses solid fuels, in violation of section 55;

(*e*) supplies without obtaining certification,

shall be punished with fine which may extend to three lakh rupees.

(*2*) Any person who—

(*a*) fails to perform an order to take measures under sub-section 43;

(*b*) fails to submit a plan for fulfilment of the obligation to recycle or a report on the results of fulfilment of the obligation to recycle under section 50,

shall be punished with fine which may extend to one lakh rupees.

Imposition and collection of fines for negligence.

77. *(1)* The appropriate Government shall impose and collect fines for negligence under section 76 in such manner as may be prescribed by rules.

CHAPTER XIX

MISCELLANEOUS PROVISIONS

Financial and technical assistance.

78. The appropriate Government may provide necessary financial and technical assistance to local authorities to promoting the business relating to—

(a) assessment of recyclability of resources of goods under section 38; and

(b) technical development and installation of facilities, necessary for manufacturers, under section 47 to reuse goods or parts.

Legislative and financial measures, etc.

79. The appropriate Government shall take legislative and financial measures necessary for the implementation of policies to facilitate the recycling of waste resources.

Power to make rules.

80. *(1)* The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in makiing any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

For long, we have used the backyards of our cities, as dump-yards. But as we became literate, empowered politically and socially, people in poor neighbourhoods and in villages are pleading enough is enough, "Your waste cannot be dumped in our backyards" is how anyone will react if anyone attempts to do so. But where is the backyard? If there is no backyard, then waste has to be managed in the front-yard. Then its management will have to change.Therefore, this Bill titled as the Waste Management and Recycling Bill attempts to address the issues of garbage disposal and its recycling.

India is growing rapidly and so are the mountains of waste its cities, heartlands and hamlets are producing. The composition of waste is also witnessing a major shift as the use of plastics and paper grow with the rise of the middle class and with the consumerist culture. In 2008, India produced 48 million tonnes of solid waste as per one estimate. By 2016, this had risen to 52 million tonnes. An assessment says that per capita waste generation is increasing by about 1.3 per cent annually.

Solid waste management has been for many years. For decades, courts have driven policy; regulations have been devised and revised and technologies are known—the world has seemingly fixed one environmental problem and that is sweeping municipalities, towns and cities off garbage. In spite of the fact that solid waste is taking over our streets, fields and sidewalks, there is little known about the quantity or quality of waste that is generated. Studies and research in the area of waste management although is very limited or non-existent, however, from the given resources, all shows the need for policy changes in garbage management.

As India looks for alternatives, how effective are the refuse-derived fuel (RDF) and other waste-to-energy technologies and can we look beyond them? The truth remains that we do not even know the composition of waste in India. Shockingly, the only comprehensive study which looked at waste quantity was done by National Environmental Engineering Research Institute (NEERI) way back in 1995. In the 1995 survey, the methodology to calculate waste generated adopted was to simply multiply the population, with an assumed quantity estimate.

India's legal system rose to the challenge of waste management more than a decade ago. Since then, there have been many regulations. The Municipal Solid Waste Rules, 2000 framed under the Environment Protection Act, 1986 lays down steps to be taken by municipal authorities to manage waste. In fact, the laws and legislation had a deficit of clarity. Legal sanctions and implementation have resulted in little action on the ground. The only solace is what the Hon'ble Supreme Court of India has done as it has taken a proactive role in the development of a better solid waste management regime. Therefore, the laws in India need to be strengthened and so does their implementation.

Given the magnitude of environmental destruction associated with construction material, promotion of alternative and recycling of waste is not a matter of choice but a necessity. Several countries have found ways to manage their construction and demolition waste: they recycle the waste and reuse it in construction. Singapore, which generates 260 kilogram of construction and demolition waste per person recycles 98 per cent of it. Why not India then?

Currently, limited resources are available for waste management. The trend is unlikely to change in the near future. Urban local bodies have to be intelligent about waste finance and treat garbage as a resource, and not as waste. Private players entering different levels of the management stream need to be made accountable. Neither households nor municipalities in India practice segregation of biodegradable waste, and public awareness on the benefits of segregation is low. The collection of garbage from dump-sites is infrequent, processing is not done in most cases, and disposal rules are followed more in the breach. Contracts,

sometimes along with equipment, are given for door-to-door collection of wastes. This activity is labour intensive and generally taken up by small contractors or Non-Governmental Organisations at a low cost. As assessment shows that the city managers are struggling to find a framework for contracting solid waste management services, where segregation and waste recovery is ensured and costs for this disposal are paid.

Different cities in India have adopted different strategies to deal with solid waste. While some are simply trying to brush their waste under the carpet, others have achieved various levels of segregation, recycling, reduction and reuse. The Centre for Science and Environment (CSE) under the leadership of Sunita Narain has conducted a massive survey this year (2016) and in its report has revealed that technology for waste disposal is not the problem. The problem is two-fold. Firstly, households and institutions are not responsible for management, through segregation or payment of the waste they generate. Secondly, there is an absolute collapse of financial and institutional (human) capacity and so accountability in our municipal systems. In this scenario, the best option according to CSE is found exists in Kerala, where municipalities have withdrawn from the waste business. People segregate and compost; informal recyclers collect and sell. This is perhaps the most exciting model for future waste business in the country. And even if it cannot be emulated completely, it holds important lessons for other cities. Waste-to-energy technology is still a good bet. But segregation holds the key—without it, India cannot unlock the resource potential in its waste.

This bill on waste management and recycling of waste resources has the potential to drive a 'waste revolution' and the desideratum is to enact and umbrella legislation to make it happen. The Government has put 'cleaning India' at the top of its agenda and launched its flagship programme named Swachh Bharat Mission on 2nd October, 2014, Mahatma Gandhi's birth anniversary. But across the country, citizen movements against garbage have expanded beyond simple calls for cleaning up. Since the right time has come to clean up India, this legislation on waste management and recycling will act as a catalyst. Undoubtedly then, the common ground between the Government and citizens will be a place where waste is managed and recycled, and not a foul-smelling mound over which vultures hover.

Hence this Bill.

NEW DELHI;
November 18, 2016.

RICHARD HAY

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for accountability of the appropriate Government to ascertain current status of waste discharge, install and operate waste disposal facilities; create awareness amongst residents and business operators about the importance of protecting environment and coordinate among all agencies providing waste management services. Clause 11 provides for conducting statistical research on current status on waste generated and mode of disposal area wise. Clause 14 provides that appropriate Government shall be responsible for collection, transportation and disposal of household wastes. Clause 38 provides that the appropriate Government shall take steps to mitigate the impact of waste goods on environment and to extend technical support to manufacturers for self assessment. Clause 44 provides for separate collection of recyclable waste resources. Clause 45 provides for establishment and operate facilities necessary to facilitate the exchange of second hand goods and recycling of reusable bulky weight. Clause 47 provides for facilities of technical support of manufacturers to recover goods or parts in order to reuse them. Clause 60 provides that the appropriate Government shall lend fund or arrange loans for recycling of waste resources. Clause 63 provides for installation of public waste recycling infrastructure. Clause 64 provides for facilities for facilitating of waste recycling etc. Clause 65 provides for information of recycling of waste resources. The Central Government shall incur expenditure for providing waste disposal facilities etc. from the Consolidated Fund of India in respect of Union territories. The State Governments shall incur expenditure for providing waste disposal facilities etc. in respect of their States from their respective consolidated funds. Moreover, the Central Government has to provide fund to the State Governments to carry out the purposes of this Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of rupees five hundred crore is likely to be incurred.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 80 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 314 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 124.

2. In article 124 of the Constitution, in clause (*1*), the following proviso shall be added at the end, namely:—

"Provided that such number of Judges, as is equal to the proportion of population in the country of the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes to the total population of the country, shall be appointed from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes.

Explanation.—In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.".

Amendment of article 216.

3. In article 216 of the Constitution, the following proviso shall be added at the end, namely:—

"Provided that such number of Judges, as is equal to the proportion of population in the State of the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes to the total population of the State, shall be appointed from amongst the

persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes.

Explanation.—In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.".

Amendment of article 312.

4. In article 312 of the Constitution, after clause (*4*), the following clause shall be added, namely:—

"(*5*) The law providing for the creation of the all-India judicial service aforesaid shall specifically provide for reservation in appointment of Judges for the persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes in the same proportion, as the population of the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes bear to the total population of India.

STATEMENT OF OBJECTS AND REASONS

There is a need for representation from the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes in higher judiciary. In the face of inadequate number of judges from backward classes in higher courts, it is imperative to have a reservation policy in this regard. This would ensure the well-being of all sections of society as the needs of the oppressed would be better understood, leading to social equity. Of the three pillars of democracy, Legislature and Executive have been brought under the ambit of constitutional reservation. Naturally, the Judiciary must also be covered by the same principle.

Judiciary comes under the definition of 'State' under article 12 of the Constitution. Articles 15(4) and 16(4) provide for special provision for advancement and reservation respectively in favour of any backward class which is not adequately represented in the services under the State. As our higher judiciary still has inadequate representation from the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes communities, this Bill aims to provide reservation for the same.

Standing Committee on Personnel, Public Grievances, Law and Justice has recommended reservation for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes communities in higher judiciary in its various Reports presented during the fourteenth Lok Sabha. The Parliamentary Committee on Welfare of the Scheduled Castes and the Scheduled Tribes also recommended reservation for backward classes in higher judiciary in its Report in the year 2000.

The nine Judge Supreme Court bench in the case of Indra Sawhney Vs. The Union of India had upheld reservations for Other Backward Classes.

When the Parliament enacts a law to provide for the creation of an all India judicial service, it is imperative that reservation is provided to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes as is provided for in other All India Services such as the Indian Administrative Services.

Hence this Bill.

NEW DELHI; RAJEEV SATAV

November 16, 2016.

BILL NO. 306 OF 2016

A Bill further to amend the Indian Forest Act, 1927.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Forest (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new section 35A.

2. In the Indian Forest Act, 1927 (hereinafter referred to as the principal Act), in Chapter V, after section 35, the following section shall be substituted, namely:—

"35A. Notwithstanding anything contained in section 35, the State Government shall not exercise any control over any forest and land not being the property of State Government except in accordance with law passed by Parliament in this regard for the purpose."

Substitution of new section for section 36.

3. For section 36 of the principal Act, the following section shall be substituted, namely:—

"36. The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this chapter."

Omission of sections 37 and 38.

4. Sections 37 and 38 of the principal Act shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Indian Forest Act, 1927 provides for Reserved Forests, Village Forests and Protected Forests. However, Chapter V of the Act contain sections 35 to 38 to regulate forest and lands which are not the property of the State Government, popularly called as 'Private Forests'.

Some State Governments have started doing surveys to identify Private Forests. However, during the surveys carried, vast areas of plantations, agriculture, horticulture, garden lands have been included and identified as 'Private Forest'. In most of the cases, owners of land, which have been declared as Private Forests, are not aware that their lands, have been so declared. Before the start of these surveys no policy guidelines were announced by the State Governments, who were entrusted with the duty of doing survey.

In a number of cases, the land which is covered by 'Private Forests' is a mixed land where agriculture, horticulture, plantations, garden lands exists side by side. Hence, there is an urgent need to enact an exhaustive legislation on forests combining the Indian Forest Act, 1927 and the Forests (Conservation) Act, 1980 and all other related Acts.

However, in any case, no land should be declared as 'Private Forests', without enacting any legislation on the subject as, the present practice of notifying Private Forests, amounts to criminal trespass, which should be halted.

Hence this Bill.

NEW DELHI; OM PRAKASH YADAV

November, 16, 2016.

BILL NO. 316 OF 2016

A Bill to provide for the right to privacy of personal data to all individuals in the country; establish the liability of the organizations holding personal data as well as the appropriate Government in case of misuse of such personal data; for creation of a National Do-Not-Disturb Registry to ensure that individuals are not harassed by organisations and creating awareness among individuals for protection of their personal data and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. *(1)* This Act may be called the Right to Privacy of Personal Data Act, 2016.

(*2*) It extends to whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*b*) "business contact information" means individual's name, position name or title, business telephone number, business address, business electronic mail address or business fax number and any other similar information about the individual, not provided by individual solely for his personal purposes;

(*c*) "data subject" means an individual whose personal data is being processed;

(*d*) "individual" means a human being whether living or deceased;

(*e*) "intermediary" means an organisation which processes personal data on behalf of another organisation;

(*f*) "national interest" includes issues of national security, defence and conduct of international affairs;

(*g*) "organisation" includes any individual, company, intermediaries, contractors, association or body of persons, corporate or unincorporated,whether or not—

(*i*) formed or recognised under any law of the country; or

(*ii*) resident, or having registered office or a place of business in India.

Explanation.— Organisation shall also include Government Ministries, Departments and public funded Institutions at all levels.

(*h*) "personal data" means any data, whether true or not, about an individual who can be identified from that data and other information about an individual which any organisation has collected or is likely to have access to;

(*i*) "prescribed' means prescribed by rules made under this Act;

(*j*) "privacy risk" means the potential for personal data, on its own or when linked to other information about an individual, to cause emotional distress, or physical, financial, professional or any other harm to an individual;

(*k*) "processing of personal data" means taking any action regarding data that is linked to an individual or a specific device, including but not limited to collecting, retaining, disclosing, using, merging, linking, and combining data.

(*l*) "Research Centre" means the National Research Centre for Excellence in Data Management established under section 10; and

(*m*) "Registry" means National Do-Not-Disturb Registry established under section 4.

Right to Privacy of Personal Data.

3. (*1*) Every individual, whether he is citizen or not, shall have the right to privacy of personal data generated by him while staying legally within the country.

(*2*) Notwithstanding anything contained in any other law for the time being in force, no person shall process the personal data without the consent of the individual:

Provided that if the individual is deceased, after the commencement of the Act, this right shall pass on to his legal heir(s), as the case may be.

(*3*) Before taking the consent for processing of personal data every organisation shall provide the individual in concise and easily understandable language, accurate, clear, timely and conspicuous notice of its privacy and security practices.

(*4*) Every organisation shall provide convenient and reasonable access to such notice, in electronic, physical or any other feasible form, and any updates or modifications to such notice to the individual whose personal data is processed.

(*5*) After taking the consent, every organisation shall provide the individual with reasonable means to control the processing of personal data in proportion to the privacy risk to the individual.

Establishment of a National Do-Not-Disturb Registry.

4. (7) The Central Government shall , by notification in the Official Gazette establish a Registry to be named as National Do-Not-Disturb Registry where citizens may register themselves to restrict any sort of communication, in any form including but not restricted to receiving phone calls, messages or mails.

(7) The appropriate Government shall take necessary measures to promote the National Do-Not-Disturb Registry and make the individuals aware of the same.

Creation and review of data requirement policy.

5. (*1*) Every organisation shall frame a data requirement policy, within three months of the commencement of the Act, and shall review the actual requirement of personal data of individuals on a periodical basis.

(*2*) The review of data requirement policy shall be updated on yearly basis unless a need to update the same arises earlier for an organisation.

Creation of awareness of protection of personal data.

6. The appropriate Government shall take necessary measures for creation of awareness of protection of personal data among the persons living in the country.

Restrictions on right to privacy of personal data.

7. Notwithstanding anything contained in this Act, the right to privacy of personal data of the individual shall be restricted to,—

(*a*) matters of national security;

(*b*) protect the life and health of an individual who is not able to express his consent;

(*c*) the data of the individuals who have died deceased before the commencement of the Act;

(*d*) when an individual is acting in the course of his employment with an organisation; and

(*e*) for business contact information.

Guidelines for privacy of personal data.

8. (*1*) The appropriate Government, as and when required, shall issue guidelines for maintaining privacy of personal data.

(*2*) The guidelines shall be issued after due consultations with the concerned stakeholders.

Coordination within appropriate Government.

9. The appropriate Government shall take all measures to ensure effective coordination between services provided by concerned Ministries and Departments such as those dealing with Law, Home Affairs, Human Resource Development, Electronics and Information Technology, Information and Broadcasting, Defence, Corporate Affairs and External Affairs to address issues of privacy of personal data.

Establishment of National Research Centre for Excellence in Data Management.

10. (*1*) The Central Government may, by notification in the official Gazette, establish for the purposes of this Act, Research Centre to be known as the National Research Centre for Excellence in Data Management which shall conduct holistic research activities in the field of data management.

(*2*) The Central Government may, by notification, specify the headquarters of the Research Centre established under sub-section (*1*).

(*3*) The Central Government shall provide the Research Centre with such number of officers and staff as it considers necessary for carrying out the purposes of this Act.

(*4*) The salary and allowances payable to and other terms and conditions of the officers and staff of the Research Centre shall be such as may be prescribed.

Compulsory education of privacy of personal data in educational institutions.

11. (*1*) On and from such date, as the appropriate Government may, by notification in the Official Gazette specify, the education of privacy of personal data in educational institutions shall be imparted compulsorily from such class onwards as may be prescribed.

(*2*) The appropriate Government shall appoint of such number of teachers with such qualifications, as may be specified, for teaching privacy of personal data in educational institutions in such manner as may be prescribed.

Public Servants not to misuse access to personal data of citizens.

12. No public servant shall misuse the access to personal data or track the personal data of the individual including the Members of Parliament, Members of Legislative Assembly or Council except for matters of national security.

Central Government to provide funds.

13. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Penalty.

14. (*1*) Any organisation who directly or indirectly contravenes or attempts to contravene the provisions of this Act, shall be punished with imprisonment for a term which may extend to seven years or with fine which may extend up to fifty lakh rupees or with both.

(*2*) Nothing in sub-section (*1*) shall apply to individuals including the directors of the organisations who prove his innocence with regard to the illegal data processing conducted in the organisation.

Payment of financial compensation to aggrieved individuals.

15. (*1*) If it is proved that the organisation has undertaken illegal personal data processing of individuals, the organisation shall be liable to pay ten times the revenues earned from such activities as compensation to the aggrieved individuals.

(*2*) In case the organisation is unable to pay financial compensation under sub-section (1), their assets shall be liable to be attached for this purpose.

Power to remove difficulties.

16. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty :

Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of this Act.

Act to have overriding effect.

17. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

18. (1) The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(*2*) Every rule under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, Parliament agrees in making any modification in the rule or Parliament agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modifications or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Personal data refers to data, whether true or not, about an individual who can be identified from that data and other information to which any organisation has or is likely to have access. In the earlier times, personal data of citizens was confined to limited domains of Government records and paper documentation managed privately by citizens. However, India has witnessed a digital revolution at the cusp of the 21st century. The social and economic landscape of the country underwent a metamorphosis with the advent of technology. With this, the scope of personal data expounded exponentially. According to data industry giant IBM website, nearly 90% of the total data in the world has been created in last two years alone. A major portion of this personal data is generated through electronic medium chiefly through the means of internet. With the advent of cloud compouting, millions of terabytes of data get uploaded on the web on a daily basis.

In the past two decades, there has been a meteoric rise in promoting digital governance in the country and the same has been undertaken in the recent months under the Digital India Initiative. Digital provisions of governmental, banking and various other necessary services have given way to generation of millions of terabytes of sensitive citizen data in the country. There has been an upsurge in the use of e-Locker services (DigiLocker) provided by the Government and various cloud based storage applications for storing crucial personal data by the citizens. The marquee government program for digital identification of all its citizens (Aadhaar) is on its way of completing a universal coverage in the country.

With an array of governmental services being provided digitally to the citizens, there lies an imminent threat of unauthorised capturing and recording of personal data generated through the provisions of these services. With the meteoric rise of the Business Process Outsourcing (BPO) industry in the country, the demand for personal data of people is huge and in order to cater to the same, there has been a rise of a *data mafia* and an entire illegal industry has come up, worth thousands of crores which would provide personal details of citizens for profit-making purposes. Due to phenomenal penetration of smartphones in the country, there has been a rise in the application (Mobile App) culture and data generated on these applications has also increased significantly.

In such circumstances, it becomes extremely important to protect the personal data especially generated through electronic means belonging to the citizens in the country. Individual data of extremely sensitive nature such as retina scans, thumb imprints of millions of Indian citizens collected under Aadhaar need highest degree of safeguards especially when the same is collected by private Enrolment Agencies. The data captured under e-Locker and online storage programs need comprehensive security considering the invaluable nature of data stored in the same by the Indian citizens.

There is also an urgent need to create a broad, transparent and comprehensive framework to determine the liability of the organizations collecting, storing and maintaining the personal data of the user. There is a need to introduce a 'Review of Data Requirement Policy' to keep a check on the greed of organizations seeking more data for nefarious purposes. This policy must specifically differentiate the instances where the need is of mere identification of individuals and cases where specific personal data of the citizens is required. Despite having a Do-Not-Disturb (DND) Policy in place, the organizations have found loopholes within the same and the tele-marketing harassment of common and innocent citizens in the country continues. There is a need to legislate for the creation of a National Do-Not-Disturb Registry (NDNDR) along with stringent penal provisions against the organizations which harass the citizens who register their numbers within this Registry. There is also an urgent need to create awareness among the citizens to explain the significance of their personal data and the need to protect the same. A large number of instances have come to light where the

access to personal data of the politicians in the country especially the Parliamentarians at both the central and state level is misused for political vendetta. Hence, there is a need to bring the Government officials to be brought under the purview of the Act in order to ensure that such illicit tracking and misuse of access to personal data can be prevented.

Various countries across the globe have recognized the importance of enacted comprehensive legislations giving protection to data of its citizens.

Various provisions in the current legal framework including the information Technology Act deal with the protection of data of the citizens. However, the laws in this country have not been able to keep up with the speed of fast changes occurring in the world of technology. There is a need to make the penal provisions for illegal capturing, storing and performing other such malicious activities with the personal data of the citizens even more stringent. There is also a need to introduce a component of payment of financial compensation to aggrieved user whose data has been misused by the organizations in order to disincentivize perfomance of such unlawful activities.

Hence, in the times when the internet and data generated through the same are becoming ubiquitous, it is pertinent that the rights in relation to the same are imparted to the citizens and such a measure will surely help in proving the age old adage 'A stitch in time, saves nine.' The AP shah Committee submitted a report on the need to enact a law on privacy in the year 2012. Despite the passage of four years, still the Government has not enacted a comprehensive law on data privacy in the country. It is high time that a law should be enacted to protect the very foundational premise for the success of Digital India which is the protection of data of its citizens without further delay.

The need of the hour is to develop fool-proof data-protection laws in the country. There is an urgency to create a comprehensive law for imparting holistic privacy to the personal data of the citizens of this country.

Hence this Bill.

OM PRAKASH YADAV

NEW DELHI;
November 16, 2016.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for establishment of a National Do-Not-Distrub Registry. Clause 6 provides for creation of awareness of protection of personal data. Clause 10 seeks to establish a National Research Center for Excellence in Data Management. Clause 11 provides for compulsory education of privacy of personal data in educational institutions. Clause 13 provides that the Central Government shall provide requisite funds for carrying out the purposes of the Bill. At this stage, it is not possible to estimate the amount to be incurred. However, the Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one thousand crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one thousand and five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 18 empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 311 OF 2016

A Bill further to amend the Drugs and Cosmetics Act, 1940.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Drugs and Cosmetics (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 5.

2. In section 5 of the Drugs and Cosmetics Act, 1940,— 23 of 1940.

(*a*) in sub-section (*2*), after clause (*xvi*), the following clause shall be inserted, namely:—

"(*xvii*) one scientist who shall be an expert in non-animal alternatives, to be nominated by the Central Government."; and

(*b*) in sub-section (*3*), in proviso, for the words "or clause (*xvi*)", the words "or clause (*xvi*) or clause (*xvii*)" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

In 2007, the National Academy of Sciences in the United States identified the need for a fundamental paradigm shift in the way safety testing is carried out, envisioning" ...a not-so-distant future in which virtually all routine toxicity testing would be conducted in human cells or cell lines". The approach - termed "toxicology from the 21st century" or "Tox 21" — involves uncovering exactly how chemicals disrupt normal human biological processes at the molecular and cellular levels, and then using state-of-the-art *in vitro*, computational, and robotic tools to test for these disruptions and make predictions regarding real-world risks to people.

Some of the new technology being developed is truly revolutionary. Harvard University's Wyss Institute is developing an approach known as "organs-on-a-chip" in which human cell cultures are subjected to dynamic forces (*e.g.* lung cells "breathe") and subsequently display properties that are very similar to those seen *in vivo* in humans.

However, very little of it is seen in India, whether in research or in regulation. While the Ministry of Health and Family Welfare, Government of India has made landmark decisions of prohibiting animal testing for cosmetics and phasing out the infamous Draize Test, there is a lack of scientific expertise available on key committees to relay the progress made in research regulation.

India has been signatory to the Mutual Acceptance of Data (MAD) agreement of the Organisation for Economic Co-operation and Development (OECD) since 2011. The OECD contains a number of non-animal alternatives for any of its member countries or MAD signatory countries to uptake however with India, the consideration of uptake of these alternatives have been close to nil. With the advent of alternatives in a larger way in the near future owing to the development of alternatives worldwide and the requirements of Indian law, *i.e.*, section 17(2)(d) of Chapter IV of the prevention of Cruelty to Animals (PCA) Act, 1960 requires that "experiments on animals are avoided wherever it is possible to do so", it is important that a scientist with knowledge and expertise on non-animal alternatives to experimentation is included in the Drugs Technical Advisory Board under the Drugs and Cosmetics Act, 1940 so that redundant animal testing could be avoided wherever necessary.

Hence this Bill.

NEW DELHI;
November 16, 2016.

RAGHAV LAKHANPAL

BILL NO. 312 OF 2016

A Bill further to amend the Insecticides Act, 1968.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Insecticides (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 4.

2. In section 4 of the Insecticides Act, 1968 (hereinafter referred to as the principal Act),— 46 of 1968.

(*a*) in sub-section (*3*), after clause (*xxi*), the following clause shall be inserted, namely:—

"(*xxii*) one scientist who shall be an expert in non-animal alternatives, to be nominated by the Central Government."; and

(*b*) in sub-section (*4*), for the words "under clauses (*xiv*) to (*xxi*)", the words "under clauses (*xiv*) to (*xxii*)" shall be substituted.

Amendment of section 4.

3. In section 5 of the principal Act, in sub-section (*1*), for the words "and the Plant Protection Adviser to the Government of India", the words ", the Plant Protection Adviser to the Government of India and the scientist appointed under clause (*xxii*) of sub-section (*3*) of section 4"shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The world, in the past ten years, has seen a paradigm shift in the way chemicals are being tested for health risk assessment. Safety testing is moving away from simply causing recognizable toxic effects in animals and moving into understanding symptoms, disorders, diseases and toxicity endpoints more holistically. This includes moving away from obsolete, time consuming, painful experiments on animals to swift, sustainable, superior non-animal technologies.

Europe and the United States have already begun to invest heavily in this research area, with collaborative research agreements being struck to maximize coordination, data sharing and potential synergies.

Europe, in the recent past, has made considerable progress in reducing the number of animals used to test a new active substance by an unprecedented 40% to 50% compared to previous requirements—making it one of the largest one-time regulatory animal test reduction ever achieved.

Whereas Europe was lagging behind 15-20 years in its regulation for safety assessment of pesticides, India's regulation still has elements that date back forty-five years. Obsolete, animal intensive experiments are still being mandated by the regulatory authority.

India has been a signatory to the Mutual Acceptance of Data (MAD) agreement of the Organisation for Economic Co-operation and Development (OECD) since 2011. The OECD contains a number of non-animal alternatives for any of its member countries or MAD signatory countries to uptake. However with India, the uptake and putting in practice, these alternatives have been extremely slow. This is due to the fact that neither the Central Insecticide Board nor the Registration Committee contain any member with expertise in the non-animal alternatives. The Board heavily relies on stakeholders outside the Committee. With the advent of alternatives in a larger way in the near future owing to the development of alternatives worldwide and the requirements of Indian law, *i.e.,* section 17(2) (d) of the Prevention of Cruelty to Animals Act, 1960 requires that "experiments on animals are avoided wherever it is possible to do so", it is important that a scientist with knowleage and expertise on non-animal alternatives be included in the Central Insecticide Board and the Registration Committee so that redundant animal testing could be avoided thereby saving animals from unnecessary pain and suffering; and advancing India's standards in technology by bringing its regulatory requirements at par with the global leaders.

Hence this Bill.

NEW DELHI;
November 16, 2016.

RAGHAV LAKHANPAL

BILL NO. 19 OF 2017

A Bill to ensure equal participation of men and women in representing the Government of India while entering into any international treaty, agreement, covenant, resolution or negotiation, including those relating to war or peace, in order to uphold the values of international human rights and convention to which India is a signatory.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called International Treaties and Agreements (Equal Representation of Women) Act, 2017.

(*2*) It extends to the whole of India, except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires, "prescribed" means prescribed by rules made under this Act.

Constitution of the Authorities.

3. (*1*) The Central Government shall, within six months of the coming into force of this Act, by notification of the Official Gazette, appoint a Commissioner of International Negotiations and such number of Deputy Commissioners of International Negotiations as may be necessary, in such manner, as may be prescribed.

(*2*) The Commissioner of International Negotiations shall be a person who is or has been a Judge of the High Court to be appointed in consultation with the Chief Justice of India for a period of three years.

(*3*) The Deputy Commissioners shall be appointed from amongst persons who are qualified to be appointed as Judge of a High Court after consultation with the Chief Justice of India for a period of three years.

(*4*) The Central Government shall, within six months of coming into force of this Act, by notification in the Official Gazette, constitute a Committee to be known as the International Negotiations Committee.

(*5*) The Chairperson of the International Negotiations Committee shall be a person who is or has been a Judge of the Supreme Court to be appointed in consultation with the Chief Justice of India for a period of three years.

(*6*) The International Negotiations Committee shall consist of three members to be appointed by the Central Government, of whom one shall be a person who is or has been a Judge of the High Court to be appointed in consultation with the Chief Justice of India and the other two members shall be appointed from amongst persons having knowledge and experience of refugee issues and refugee law for a period of three years.

(*7*) The Commissioner of International Negotiations may assign such of his function, as may be necessary, to the Deputy Commissioners of International Negotiations.

Ensuring gender parity in peace conversation.

4. The Commissioner of International Negotiations, the Deputy Commissioners of International Negotiations and the International Negotiations Committee shall be responsible for ensuring equal participation of men and women—

(*i*) in every international conference, international association and other international bodies, wherein they shall represent the Government of India;

(*ii*) in representing the Government of India while entering into treaties and agreements with foreign countries and while implementing such treaties or agreements;

(*iii*) while representing the Government of India in any negotiation, resolution or international conversation regarding war or peace; and

(*iv*) in every peace talk at national level, wherein they shall represent the Government of India.

Power to make rules.

5. (*1*) The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Beijing Platform Action 1992 makes clear that the women, peace and security agenda is not simply about making war safe for women, as it is sometimes understood, but about preventing the outbreak of violent conflict and resolving it where it does occur. It also stresses the importance of fostering a culture of peace among men and women, alluding to links between gender norms and militarization.

The Security Council adopted a resolution (S/RES/1325) on women and peace and security on 31 October, 2000. The resolution reaffirms the important role of women in the prevention and resolution of conflicts, peace negotiations, peace-building, peacekeeping, humanitarian response and in post-conflict reconstruction and stresses the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security. Resolution 1325 urges all actors to increase the participation of women in all United Nations peace and security efforts. It also calls on all parties to conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, in situations of armed conflict. The resolution provides a number of important operational mandates, with implications for Member States and the entities of the United Nations system.

There have been 17 peace talks in the country and only 2 women have participated so far. Currently there are none in these peace talks. The main objective of this Bill is to establish an appropriate legal framework to recognize the stake of women in conflict talks and to ensure that international negotiations including peace negotiations maintain gender-parity.

Hence this Bill.

NEW DELHI;
November 18, 2016.

THOKCHOM MEINYA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the appointment of a Commissioner of International Negotiations and such number of Deputy Commissioners of International Negotiations as may be necessary. It also provides for constitution of the International Negotiations Committee consisting of three members. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty crore will be involved as a recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure to tune of rupees fifty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 18 OF 2017

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 197.

2. In the Code of Criminal Procedure, 1973, in section 197, sub-sections (*2*), (*3*) and (*3A*) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Violence against women in disturbed areas often goes unnoticed due to impunity provided to armed forces under the provision of extraordinary laws of the country. This contradicts with the fundamental right enshrined in article 21(A) which relates to protection of life and personal liberty. Based on the unequal power structures in the society, women are discriminated against and are vulnerable. This contradicts with fundamental rights mentioned in Article 15 which pertain to prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

The provision of international humanitarian laws suggest that women shall be treated with all the regard (Article 12 of first and second Geneva Convention of 1949 and Article 14 of third Geneva Convention of 1949).

The most comprehensive international laws for the basic human rights is the 1974 United Nations General Assembly Declaration on the Protection of Women and Children in Emergencies and Armed Conflicts, which recognized "the need to provide special protection of women and children belonging to the civilian population" for they are "too often the victims of inhuman acts and consequently suffer serious harm". It prohibited "all forms of repression and cruel and inhuman treatment of women and children, including imprisonment, torture, shooting, mass arrests, collective punishment, destruction of dwellings and forcible eviction"; and condemned attacks and bombings on the civilian population and called for respect of basic human rights and humanitarian law in all cases.

The 1993 Declaration against Violence against Women adopted by the United Nations General Assembly signified an important step in defining violence against women as "any act of gender based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life". This definition comprises not only violence committed by the general community and by family members, but by the State too. It also recognized in its preamble that women in situations of armed conflict are especially vulnerable to violence.

The Resolution on Women, Peace and Security 1325 adopted by the United Nations Security Council in 2000 requested the inclusion of women in peace building and peacekeeping operations and decision-making bodies. It also called for the respect of human rights of women and urged the States to refrain from granting impunity to people who have committed genocide, war crimes and crimes against humanity, including those relating to sexual violence against women.

The increase in number of such crimes has been a matter of grave concern for the society and requires to be addressed urgently.

The Bill, therefore, seeks to provide for protection of individual liberty, right to life, equality before law and prevention of victimization, prohibition of impunity to military personnels under the grab of extraordinary laws for the lives of vulnerable women in disturbed areas.

Hence this Bill.

NEW DELHI; THOKCHOM MEINYA

November 18, 2016.

BILL NO. 17 OF 2017

A Bill further to amend the Prevention of Insults to National Honour Act, 1971.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Prevention of Insults to National Honour Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In section 2 of the Prevention of Insults to National Honour Act, 1971, in *Explanation 4*, after clause (*l*) the following clause 2 shall be added at the end, namely:— 69 of 1971.

"(*m*) display by any regional or national political party of its election symbol in the centre or any other part of the Indian National Flag."

STATEMENT OF OBJECTS AND REASONS

Shri Pingali Venkaiyananda Ji envisaged Indian National Flag and it was adopted in its present form by the Constituent Assembly of India in its meeting held on 22nd July, 1947, *i.e.* a few days before the independence of India on 15th August, 1947 and thereafter it was adopted by the Indian Republic. In our country "Tricolour" refers to the Indian National Flag.

Indian National Flag represents the expectations and aspirations of the citizens of the country. It is not only the symbol of our national pride, but also a symbol of dignity and respect of the country. Personnel of the Armed Forces including many citizens have sacrificed their lives to keep the dignity of tricolour intact over the period of the last six decades. Our National Flag represents expectations and aspirations of the people of the whole of the country. Therefore, it is necessary that no regional or national political party of the country should display the National Flag in its election symbol.

The Bill, therefore, seeks to amend the Prevention of Insults to National Honour Act, 1971 to maintain honour to the Indian National Flag.

Hence this Bill.

NEW DELHI;
November 18, 2016.

GOPAL CHINAYYA SHETTY

BILL NO. 21 OF 2017

A Bill to repeal the Armed Forces (Special Powers) Act, 1958.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called Armed Forces (Special Powers) Repeal Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Repeal of the Armed Forces (Special Powers) Act, 1958. (Act No. 28 of 1958).

2. The Armed Forces (Special Powers) Act, 1958 is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Armed Forces Special Powers Act, 1958 (AFSPA) is a draconian law that gives Indian soldiers impunity while battling insurgencies in north-eastern parts of India. The battle against the Armed Forces Special Powers Act is a long, bitter one.

On August 15, 1942, Lord Linlithgow, the viceroy of India, promulgated the Armed Forces Special Powers Ordinance to suppress the Quit India Movement launched by Mahatama Gandhi. Gandhi, Jawaharlal Nehru and most leaders of the Indian National Congress were imprisoned under this law.

A few years after Indian independence, the Government of India led by Shri Jawaharlal Nehru, the first Prime Minister. faced his first insurgency in Naga districts of Assam, along the Burmese border. In 1954, the Nagas began an insurgency for independence. India responded by sending in thousands of Indian army soldiers and para-military forces to crush the rebellion. An intense cycle of violence followed. To further arm his counter insurgents and provide them with legal protection, the then Government passed the Armed Forces Special Powers Act, 1958.

The discontent in the borderlands of India wasn't limited to the Naga areas. Signs of trouble and disillusionment with being ruled by a bureaucrats from New Delhi were growing in the former princely State of Manipur, which had merged with India in 1949. In 1964, a separatist militant group seeking independence from India, the United National Liberation Front, was formed in Manipur. India reacted to the centrifugal force by granting statehood to Manipur in 1972, which brought an elected local Government and greater financial resources.

A few years later, inspired by Maoist ideas, some Manipuri rebels travelled to Lhasa and, with Chinese support, formed an insurgent group, the People's Liberation Army, which sought independence of Manipur. Several smaller insurgent groups came into being. India responded by declaring Manipur a "disturbed area" and imposed the Armed Forces Special Powers Act in late 1980. A brutal cycle of insurgency and counter insurgency has continued ever since, claiming several thousand lives.

It may be seen that the disturbed areas of the country have seen grave crimes against the citizens of the country. It has led to a culture of impunity and grave violation of human rights including violation of article 21 of the Constitution which provides right to life and liberty to its citizen.

The AFSPA violates the provisions of the Universal Declaration of Human Rights ("UDHR"), the International Covenant on Civil and Political Rights ("ICCPR"), the Convention Against Torture, the United Nations Code of Conduct for Law Enforcement Officials, the United Nations Body of Principles for Protection of All Persons Under any form of Detention and the United Nations Principles on Effective Prevention and Investigation of Extra- Legal and Summary Executions.

As a matter of fact, the Armed Forces (Special Powers) Act, 1958 popularly known as AFSPA is a draconian law, which was originally framed by the British Colonial power in order to suppress its colonial subjects.

The irony is that this law is still in vogue in this largest democracy of the world. The Supreme Court, various Commissions, Committees including International Organisations have recommended the repeal of this draconian law.

The report of the Justice Jeevan Reddy Committee (2005) recommending, among others, repeal of the Act is already with the Government.

The report of the Second Administrative Reforms Commission (2007) headed by none other than the former Union Minister, Shri M. Veerappa Moily, who was also the former

Union Law Minister recommended, among others, repeal of the Armed Forces (Special Powers) Act, 1958.

Further, the report of the Working Group on Confidence-Building Measures in Jammu and Kashmir (2007) headed by Shri Hamid Ansari, Hon'ble Vice-President of India recommended, among others, repeal of AFSPA. The Justice J.S. Verma Committee (2012) had recommended the repeal of this Act.

It is a fact that many citizens had been killed in "fake encounters" and "several cases of enforced disappearances" had been recorded in the country because of this infamous Act. Also, around 169 countries had recommended the repeal of this draconian Act.

The Bill, therefore, seeks to repeal the Armed Forces (Special powers) Act, 1958.

NEW DELHI;
November 20, 2016.

THOKCHOM MEINYA

BILL NO. 5 OF 2017

A Bill further to amend the Food Safety and Standards Act, 2006.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called as the Food Safety and Standards (Amendment) Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 3.

2. In section 3 of the Food Safety and Standards Act, 2006 (hereinafter referred to as the principal Act),—

(*a*) after clause (*b*), the following clause shall be inserted, namely:—

"(*ba*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;";

(*b*) after clause (*c*) the following clause shall be inserted, namely:—

"(*ca*) "child" means a boy or a girl who has not attained the age of eighteen years;";

(*c*) after clause (*g*), the following clause shall be inserted, namely:—

"(*ga*) "Council" means the Nutrition Council constituted under section 17A;"; and

(*d*) after clause (*h*), the following clause shall be inserted, namely:—

"(*ha*) "educational institution" includes—

(*i*) a school established, owned or controlled by the appropriate Government or a local authority; or

(*ii*) a school receiving aid or grants from the appropriate Government or the local authority to meet whole or part of its expenses;

(*iii*) a school belonging to specified category; or

(*iv*) an unaided school not receiving any kind of aid or grants to meet its expenditure; or

(*v*) an educational institution managed by a private entity, society or a trust, which imparts elementary education;".

Insertion of new Chapter IIA.

3. After Chapter II of the principal Act, the following Chapter and sections thereunder shall be inserted, namely:—

"CHAPTER IIA

REGULATION OF SALE AND ADVERTISING OF FOOD PRODUCTS CAUSING OBESITY AMONGST CHILDREN

Establishment of Nutrition Council.

17A. The Central Government shall, by notification in the official gazette, establish a Council to be known as the Nutrition Council to regulate sale and advertising of food products which cause obesity amongst children.

Composition of Nutrition Council.

17B. The Council shall consist of—

(a) the Union Minister of Health and Family Welfare, Chairperson, *ex-officio;*

(b) not more than three members having expertise in medicine with at least fifteen years of experience in handling issues related to nutrition and child health;

(c) one expert each in the field of labelling and claims, advertisement, food additives, processing aids; and

(d) one member from the Union Ministry of Women and Child Development not below the rank of Joint Secretary.

Functions of the Council.

17C. The Council shall—

(a) lay down policies and principles to regulate sale and advertising of food products causing obesity amongst children;

(b) determine its procedure in the performance of its functions;

(c) admit any complaints regarding non-implementation of its policies; and

(d) initiate action for violating provisions of this Chapter.

Central Government to provide Officers and employees.

17D. The Central Government shall provide such number of officers and other employees to the Council as may be necessary for efficient discharge of its functions.

Labelling of food products by the Council.

17E. All food products containing high sugar, calories, sodium, saturated fat or any other ingredient present in food products beyond limits stipulated and detrimental to health of children shall bear label warning about the presence of excess ingredient in black bold letters.

Prohibition of sale of labelled food products near educational institution.

17F. All food products labelled under section 17E shall not be sold within a radius of one kilometer of educational institution.

Prohibition on advertising of labelled food products.

17G. All food products labelled under section 17E shall not be advertised in print, television or any other form targetting children below the age of eighteen years.

Punishment for sale of labelled food products.

17H. Whoever sells a labelled food product in contravention of the provisions of this Chapter shall be punished with imprisonment for a term which may extend upto three years and fine which may extend upto rupees ten lakhs.

Punishment for advertisement of labelled food product.

17I. Whoever advertises a labelled food product in contravention of provisions of this Chapter shall be punished with imprisonment for a term which may extend upto two years and fine which may extend upto rupees five lakhs.".

STATEMENT OF OBJECTS AND REASONS

Increasing exposure to variety of fast foods has led to rise in consumption of food products which are largely detrimental to the health of the persons. While adults can recognise the harmful effects the targeted advertising of such unhealthy food products towards younger population has led to poor lifestyle standards amongst youth. The need is to regulate the sale and advertising of such food products so as to save children from their harmful effects.

Childhood obesity is a major challenge in the battle against rising rate of non-communicable diseases in India. While India is already facing strong challenge in providing affordable healthcare access to its citizens, the effects of poor lifestyle habits among its urban citizens adds further burden on the country's resources. The establishment of Nutrition Council under the Union Ministry of Health and Family Welfare with adequate representation of professionals will be vital in regulating use of ingredients resulting in obesity. A warning label on food products having more than permissible limit of certain ingredients would caution the consumers about their ill-effects.

It is also necessary to place restriction on advertisement of food products which cause obesity and sale of such food products near educational institutions. The Bill, accordingly, seeks to amend the Food Safety and Standards Act, 2006 with a view to reduce consumption of unhealthy food products by children.

NEW DELHI;
November 21, 2016.

OM BIRLA

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to constitute a Nutrition Council to regulate the sale and advertising of food products which cause obesity amongst children. It also provides for appointments of experts, officers and employees to the Nutrition Council. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees fifty crore per annum would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

Bill No. 13 of 2017

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2017.

Insertion of new article 220A

2. After article 220 of the Constitution of India, the following shall be inserted, namely:—

Prohibition as to the holding of office by the Chief Justice of a High Court or a Judge on cessation of office.

"220A The Chief Justice or any other judge of a High Court shall not be eligible for further office either under the Government of India or under the Government of any State or in any Public Sector Undertaking after he has ceased to hold office.

STATEMENT OF OBJECTS AND REASONS

Independence of judiciary is an essential attribute of rule of law, which is a basic feature of the Constitution. Judiciary must be free from all pressures including the pressures from executive as well as psychological pressure on the judges related to their future after retirement. The judges are required to ensure the independence and impartiality of judiciary by keeping themselves free from any allurement of employment under the Government after their retirement.

The Constitution of India, specifically prohibits the Chairman of Union Public Service Commission and its Members, Chairman of State Public Service Commission and its Members for further employment either under the Government of India or under the Government of any State. The Constitution of India, on the other hand nowhere restricts or prohibits retired Chief Justice and Judges of the High Courts to hold further employment either under the Government of India or under any of the State Governments.

Article 148(4) provides that the Comptroller and Auditor General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

The Chief Justice and Judges of the various High Courts, Comptroller and Auditor General of India, Chairman of Union Public Service Commission, Chairman of the State Public Service Commission and the Members of these Commissions are constitutional functionaries and they should be kept free from all kinds of allurement of employment under the Government after cessation of their office. It is presumed that reappointment of Judges would have effect of undermining the independence and fairness of judiciary.

The Constitution of India prohibits the Comptroller and Auditor General of India and the Chairman, Public Service Commission and its members from getting employment after cessation of their office. However, no such bar is there with regard to the Chief Justice and other Judges of the High Courts.

In the present scenario, the Chief Justice and Judges are getting handsome salary, other amenities, perks and post retirement benefits. The Chief Justice and Judges of the High Courts are adjudicating rights of citizens which have been jeopardized by the Government. The Judges are coming in contact with the Government on every step. As such need of the moment is to introduce a provision in the Constitution of India for prohibition to hold any office/employment by retired Chief Justice and Judges of the High Courts under the Government of India or under the Government of State.

Hence this Bill.

NEW DELHI;
November 22, 2016.

MEENAKASHI LEKHI

BILL NO. 15 OF 2017

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2017.

Amendment of the seventh schedule.

2. In the seventh schedule to Constitution, in List II—State List, after entry 41, the following entry shall be inserted namely:—

"41A. Services of the institution of self-government and self-government service selection board".

STATEMENT OF OBJECTS AND REASONS

Article 40 of the Constitution provides for organization of Village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of Self Government. Keeping in view this Constitutional mandate of Directive Principles of State Policy, the Part IX of the Constitution relating to Panchayats was incorporated by 73rd Amendment in the Constitution. Article 243(d) defines "Panchayat" as "an institution (by whatever name called) of self government constituted under article 243(B) for the rural areas."

Article 243(B) envisages the constitution of Panchayats. Article 243(G) envisages the power, authority and responsibilities of Panchayats.

The State Legislature is competent to endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of Self Government including those powers in relation to the matters listed in the Eleventh Schedule.

Entries 17, 18 and 19 of the Eleventh Schedule to the Constitution deal with education including Primary, Secondary school, Technical Training, Adult and Non formal education.

Article 246 deals with the subject matter of laws made by the Parliament and the Legislature of the States.

As per article 246(3), the Legislature of any State has exclusive power to make laws for such State with respect to any of the matters enumerated in List II, *i.e.*, the State List of the Seventh Schedule to the Constitution.

However, in the State List, there is no provision which gives legislative competence to the State in making law with respect to the services of the institution of Self Government as defined in Part IX of the Constitution of India.

Hence in view of this, it is necessary to empower legislature of the State to legislate with respect to the services of the institution of the Self Government. Therefore, entry 41A in the Seventh Schedule of the State List is required to be incorporated with respect to the services of the institutions of Self Government and Self Government Service Selection Board.

Hence this Bill.

NEW DELHI;
November 22, 2016.

MEENAKASHI LEKHI

BILL NO. 14 OF 2017

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 217.

2. In article 217 of the Constitution, in clause (*1*), for the words "sixty-two years", the words "sixty-five years" shall be substituted.

Amendment of article 224.

3. In article 224 of the Constitution, in clause (*3*), for the words "sixty-two years", the words "sixty-five years" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Clause (*1*) of article 217 of the Constitution allows every Judge of High Court to hold office until he attains the age of sixty-two years. Clause (*3*) of article 224 of the Constitution provides that no person appointed as an additional or acting Judge of a High Court shall hold office after attaining the age of sixty-two years. The age of retirement of the High Court Judges, which was fixed at sixty years in the beginning, was enhanced to sixty-two years by the Constitution (Fifteenth Amendment) Act, 1963. Since then, no revision has taken place in this regard.

The Department Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, in its 39th Report dated the 29th April, 2010, has recommended to raise the retirement age of the Judges of the High Courts from sixty-two years to sixty-five years. Hence, in view of this it is expedient and necessary to enhance the age of the Supreme Court Judges from Sixty-two to Sixty-five years. Further, most of the reasons adduced by the Fifth Central Pay Commission in support of its recommendation for increasing the age of retirement of the Central Government employees, such as global practices, increase in life expectancy, improved health standards, need for utilization of experience and wisdom of senior employees, etc. would also apply to the Judges. Besides this, after their retirement the judges are being appointed by Government in various Tribunals, Appellate Tribunals and other bodies which is antithesis and not in consonance with the spirit of the preamble of the Constitution. The increase in age of retirement will altogether stop the employment of Judges after their retirement.

Independence of judiciary is an essential attribute of rule of law, which is a basic feature of the Constitution. Judiciary must be free from all pressures including the pressures from executive as well as psychological pressure on the Judges related to their future after retirement. The Judges are required to ensure the independence and impartiality of judiciary by keeping themselves free from any allurement of employment under the Government after their retirement.

The Constitution of India, specifically prohibits the Chairman of Union Public Service Commission and its Members and the Chairman of State Public Service Commission and its Members for further employment either under the Government of India or under the Government of any State. The Constitution of India, on the other hand nowhere restricts or prohibits retired Chief Justice and Judges of the High Courts to hold further employment either under the Government of India or under any of the State Governments.

Article 148 (4) provides that the Comptroller and Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

The Chief Justice and Judges of the various High Courts, the Comptroller and Auditor General of India, the Chairman of Union Public Service Commission, the Chairman of the State Public Service Commission and the Members of these Commissions are constitutional functionaries and they should be kept free from all kinds of allurement of employment under the Government after cessation of their office.

It is presumed that reappointment of Judges would have effect of undermining the independence and fairness of judiciary.

In view of the present state of vacancies of Judges in High Courts, it is extremely difficult to clear the heavy pendency of cases in the High Courts. Increasing the age of retirement by three more years would restrict occurrence of new vacancies on account of superannuation for the next three years during which time the existing backlog in vacancies

could be cleared. This would have a clear impact on reduction of pendency of cases in the High Courts.

It is, therefore, proposed to increase the age of retirement of Judges and additional or acting Judges of High Courts to sixty-five years.

Hence the Bill.

NEW DELHI;
November 23, 2016.

MEENAKASHI LEKHI

BILL NO. 320 OF 2016

A Bill further to amend the Constitution (Scheduled Castes) Order, 1950*, the Constitution (Scheduled Castes) (Union Territories) Order,* 1951*, the Constitution (Jammu and Kashmir) Scheduled Castes Order,* 1956 *and the Constitution (Dadra and Nagar Haveli) Scheduled Castes Order,* 1962.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Scheduled Castes) Orders (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in any provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

C.O. 19 of 1950.

2. In the Schedule to the Constitution (Scheduled Castes) Order, 1950,—

(*a*) in PART I.—*Andhra Pradesh,* for entry 14, the following entry shall be substituted, namely:—

"14. Charmkar, Mochi, Muchi, Charmkar-Ravidas, Charmkar-Rohidas";

(*b*) in PART II.—*Assam,* for entry 12, the following entry shall be substituted, namely:—

"12. Mehtar, Balmiki";

(*c*) in PART III.—*Bihar,*

(*i*) for entry 6, the following entry shall be substituted, namely:—

"6. Charmkar, Mochi, Charmkar-Rabidas, Charmkar-Ravidas, Charmkar-Rohidas, Charmarkar";

(*ii*) for entry 14, the following entry shall be substituted, namely:—

"14. Hari, Mehtar, Balmiki"; and

(*iii*) for entry 15, the following entry shall be substituted, namely:—

"15. Giarah";

(*d*) in PART IV.—*Gujarat,*—

(*i*) for entry 4, the following entry shall be substituted, namely:—

"4. Bhambi, Bhambhi, Asadaru, Asodi, Chamadia, Charmkar, Charmkar-Ravidas, Chambhar, Chamgar, Haralayya, Harali, Khalpa, Machigar, Mochigar, Madar, Madig, Mochi (in Dangs district and Umergaon Taluka of Valsad district only), Nalia, Telegu Mochi, Kamati Mochi, Ranigar, Rohidas, Rohit, Samgar";

(*ii*) for entry 5, the following entry shall be substituted, namely:—

"5. Balmiki, Mehtar, Olgana, Rukhi, Malkana, Halalkhor, Lalbegi, Korar, Zadmalli, Barwashia, Barwasia, Jamphoda, Zampada, Zampda, Rushi, Valmiki";

(*iii*) for entry 32, the following entry shall be substituted, namely:—

"32. Balmiki, Mehtar"; and

(*iv*) for entry 33, the following entry shall be substituted, namely:—

"33. Charmkar";

(*e*) in PART V.—*Haryana,*—

(*i*) for entry 2, the following entry shall be substituted, namely:—

"2. Balmiki"; and

(*ii*) for entry 9, the following entry shall be substituted, namely:—

"9. Charmkar, Jatav, Jatava, Jatia Charmkar, Rehgar, Raigar, Ramdasi, Ravidasi, Balahi, Batoi, Bhatoi, Bhambi, Charmkar Rohidas, Mochi, Ramdasia";

(*f*) in PART VI.—*Himachal Pradesh,*—

(*i*) for entry 3, the following entry shall be substituted, namely:—

"3. Balmiki"; and

(*ii*) for entry 14, the following entry shall be substituted, namely:—

"14. Charmkar, Jatia Charmkar, Rehgar, Raigar, Ramdasi, Ravidasi, Ramdasia, Mochi";

(*g*) in PART VIA.—*Jharkhand,*—

(*i*) for entry 5, the following entry shall be substituted, namely:—

"5. Charmkar, Mochi";

(*ii*) for entry 13, the following entry shall be substituted, namely:—

"13. Hari, Mehtar, Balmiki"; and

(*iii*) for entry 14, the following entry shall be substituted, namely:—

"14. Giarah";

(*h*) in PART VII.—*Karnataka,*—

(*i*) for entry 21, the following entry shall be substituted, namely:—

"21. Mehtar, Olgana, Rukhi, Malkana, Halalkhor, Lalbegi, Balmiki, Korar, Zadmalli"; and

(*ii*) for entry 22, the following entry shall be substituted, namely:—

"22. Bhambi, Bhambhi, Asadaru, Asodi, Chamadia, Charmkar, Chambhar, Chamgar, Haralayya, Harali, Khalpa, Machigar, Mochigar, Madar, Madig, Mochi, Muchi, Telegu Mochi, Kamati Mochi, Ranigar, Rohidas, Rohit, Samgar";

(*i*) in PART VIII.—*Kerala,* for entry 15, the following entry shall be substituted, namely:—

"15. Charmkar, Muchi";

(*j*) in PART IX.—*Madhya Pradesh,*—

(*i*) for entry 11, the following entry shall be substituted, namely:—

"11. Mehtar, Balmiki, Lalbegi, Dharkar";

(*ii*) for entry 14, the following entry shall be substituted, namely:—

"14. Charmkar, Bairwa, Bhambhi, Jatav, Mochi, Regar, Nona, Rohidas, Ramnami, Satnami, Surjyabanshi, Surjyaramnami, Ahirwar, Charmkar Mangan, Raidas"; and

(*iii*) for entry 28, the following entry shall be substituted, namely:—

"28. Giarah";

(*k*) in PART X.—*Maharashtra,*—

(*i*) for entry 11, the following entry shall be substituted, namely:—

"11. Bhambi, Bhambhi, Asadaru, Asodi, Chamadia, Charmkar, Chambhar, Chamgar, Haralayya, Harali, Khalpa, Machigar, Mochigar, Madar, Madig, Mochi, Telegu Mochi, Kamati Mochi, Ranigar, Rohidas, Nona, Ramnami, Rohit, Samgar, Samagara, Satnami, Surjyabanshi, Surjyaramnami, Charmakar, Pardeshi Charmkar"; and

(*ii*) for entry 12, the following entry shall be substituted, namely:—

"12. Mehtar, Olgana, Rukhi, Malkana, Halalkhor, Lalbegi, Balmiki, Korar, Zadmalli, Hela";

(*l*) in PART XII.—*Meghalaya,* for entry 12, the following entry shall be substituted, namely:—

"12. Mehtar, Balmiki";

(*m*) in PART XIII.—*Orissa,*—

(*i*) for entry 19, the following entry shall be substituted, namely:—

"19. Charmkar, Charmkar-Ravidas, Charmkar Rohidas, Mochi, Muchi, Satnami";

(*ii*) for entry 60, the following entry shall be substituted, namely:—

"60. Mehtar, Balmiki";

(*n*) in PART XIV.—*Punjab,*—

(*i*) for entry 2, the following entry shall be substituted, namely:—

"2. Balmiki"; and

(*ii*) for entry 9, the following entry shall be substituted, namely:—

"9. Charmkar, Jatia Charmkar, Rehgar, Raigar, Ramdasi, Ravidasi, Ramdasia, Ramdasia Sikh, Ravidasia Sikh";

(*o*) in PART XV.—*Rajasthan,*—

(*i*) for entry 14, the following entry shall be substituted, namely:—

"14. Mehtar, Olgana, Rukhi, Malkana, Halalkhor, Lalbegi, Balmiki, Valmiki, Korar, Zadmalli";

(*ii*) for entry 17, the following entry shall be substituted, namely:—

"17. Charmkar, Bhambhi, Bambhi, Bhambi, Jatia, Jatav, Jatava, Mochi, Raidas, Rohidas, Regar, Raigar, Ramdasia, Asadaru, Asodi, Chamadia, Chambhar, Chamgar, Haralayya, Harali, Khalpa, Machigar, Mochigar, Madar, Madig, Telugu Mochi, Kamati Mochi, Ranigar, Rohit Samgar"; and

(*iii*) for entry 33, the following entry shall be substituted, namely:—

"33. Giarah";

(*p*) in PART XVI.—*Tamil Nadu,* for entry 14, the following entry shall be substituted, namely:—

"14. Charmkar, Muchi"

(*q*) in PART XVII.—*Tripura,* for entry 4, the following entry shall be substituted, namely:—

"4. Charmkar, Muchi, Charmkar-Rohidas, Charmkar-Ravidas

(*r*) in PART XVIII.—*Uttar Pradesh,*—

(*i*) for entry 24, the following entry shall be substituted, namely:—

"24. Charmkar, Dhusia, Jhusia, Jatava"; and

(*ii*) for entry 42, the following entry shall be substituted, namely:—

"42. Giarah";

(*s*) in PART XIX.—*West Bengal,*—

(*i*) for entry 11, the following entry shall be substituted, namely:—

"11. Charmkar, Charmakar, Mochi, Muchi, Rabidas, Ruidas, Rishi";

(*ii*) for entry 22, the following entry shall be substituted, namely:—

"22. Hari, Mehtar, Mehtor, Balmiki"; and

(*iii*) for entry 28, the following entry shall be substituted, namely:—

"28. Giarah";

(*t*) in PART XX.—*Mizoram,* for entry 12, the following entry shall be substituted, namely:—

"12. Mehtar or Balmiki";

(*u*) in PART XXII.—*Goa,* for entry 1, the following entry shall be substituted, namely:—

"1. Balmiki (Hadi)";

(*v*) in PART XXIII.—*Chhattisgarh,*—

(*i*) for entry 11, the following entry shall be substituted, namely:—

"11. Mehtar, Balmiki, Lalbegi, Dharkar";

(*ii*) for entry 14, the following entry shall be substituted, namely:—

"14. Charmkar, Bairwa, Bhambhi, Jatav, Mochi, Regar, Nona, Rohidas, Ramnami, Satnami, Surjyabanshi, Surjyaramnami, Ahirwar, Mangan, Raidas"; and

(*iii*) for entry 27, the following entry shall be substituted, namely:—

"27. Giarah";

(*w*) in PART XXIV.—*Uttarakhand,*—

(*i*) for entry 24, the following entry shall be substituted, namely:—

"24. Charmkar, Dhusia, Jhusia, Jatava"; and

(*ii*) for entry 42, the following entry shall be substituted, namely:—

"42. Giarah";

(*x*) in PART XXV.—*Telangana,* for entry 14, the following entry shall be substituted, namely:—

"14. Charmkar, Mochi, Muchi, Charmkar-Ravidas, Charmkar-Rohidas";

C.O. 32 of 1951.

3. In the Schedule to the Constitution (Scheduled Castes) (Union Territories) Order, 1951,—

(*a*) in PART.—*Delhi,*

(*i*) for entry 8, the following entry shall be substituted, namely:—

"8. Masani"

(*ii*) for entry 10, the following entry shall be substituted, namely:—

"10. Charmkar, Chanwar, Jatava, Jatav Charmkar, Mochi, Ramdasia, Ravidasi, Raidasi, Rehgarh or Raigar";

(*iii*) for entry 11, the following entry shall be substituted, namely:—

"11. Mehtar (Sweeper)";

(*iv*) for entry 12, the following entry shall be substituted, namely:—

"12. Mehatar (Balmiki)"; and

(*v*) for entry 20, substitute,—

"20. Giarah";

(*b*) in PART II.—*Chandigarh,*—

(*i*) for entry 7, the following entry shall be substituted, namely:—

"7. Balmiki"; and

(*ii*) for entry 9, the following entry shall be substituted, namely:—

"9. Charmkar, Jatia Charmkar, Rehgar, Raigar, Ramdasi or Ravidasi";

(*c*) in PART III.—*Daman and Diu,* for entry 1, the following entry shall be substituted, namely:—

"1. Balmiki (Hadi)";

4. In the Schedule to the Constitution (Jammu and Kashmir) Scheduled Castes Order, 1956,— C.O. 52 of 1956.

(*a*) for entry 4, the following entry shall be substituted, namely:—

"4. Charmkar or Ramdasia, Charmkar-Ravidas, Charmkar-Rahidas"; and

(*b*) for entry 5, the following entry shall be substituted, namely:—

"5. Balmiki, Mehtar";

5. In the Schedule to the Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962,— C.O. 64 of 1962.

(*a*) for entry 1, the following entry shall be substituted, namely:—

"1. Balmiki"; and

(*b*) for entry 2, the following entry shall be substituted, namely:—

"2. Charmkar, Rohit";

STATEMENT OF OBJECTS AND REASONS

With a view to provide social, political and economic justice to the deprived sections of our population, the founding fathers of our Constitution provided for and ensured that the doctrine of equality is implemented in letter and spirit for the benefit of the deprived sections of the society and the dalits in particular. Further, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 also provides for protection of the Scheduled Castes and the Scheduled Tribes from all sorts of discrimination and makes it a punishable offence to refer to members of these castes by their caste names. However, in the Constitution (Scheduled Castes) Orders, abusive and derogatory nomenclature is used for four castes, namely- 'Bhangi', 'Chamar', 'Chohra' or 'Chuhra' and 'Kanjar'.

In 2011, the use of abusive caste nomenclature by the Delhi Government in issuing caste certificates was challenged before the Delhi High Court. The then Delhi Government assured the Court that it would not issue caste certificates using the derogatory caste nomenclature and would instead use more dignified names to refer to the castes in question. The matter was thereafter withdrawn from the High Court. The Delhi Government accordingly issued a revised notification *inter-alia* to discontinue the derogatory nomenclature in caste certificates. However, the present Government of Delhi has restarted the use of the derogatory nomenclature, causing humiliation to the members of those castes. Across the different States, the same derogatory nomenclature is used to refer to members of the above mentioned castes. It is, therefore, required that an amendment to the Constitution (Scheduled Castes) Orders be passed to put an end to the usage of derogatory nomenclature for the above mentioned castes and to replace it with dignified caste names.

The derogatory nomenclature is not only in violation of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 but is also a blot on our society. Accordingly, an amendment under the purview of article 341 of the Constitution is proposed in the Constitution (Scheduled Castes) Order, 1950, the Constitution (Scheduled Castes) (Union Territories) Order, 1951, the Constitution (Jammu and Kashmir) Scheduled Castes Order, 1956 and the Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962.

The Bill seeks to achieve these objectives.

NEW DELHI; MEENAKASHI LEKHI

November 4, 2016.

BILL NO. 4 OF 2017

A Bill to establish Labour Exchanges to regulate the employment of unprotected manual workers engaged in the unorganised sector; to make better provision for their terms and conditions of employment; to provide for their welfare, and for health and safety measures where such employments require these measures; to make provision for ensuring an adequate supply to and full and proper utilization of such workers in such employments to prevent avoidable unemployment; to provide for the establishment of Labour Exchange Boards in respect of these employments and for matters connected therewith.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Establishment of Labour Exchanges Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In this Act, unless the context otherwise requires,— Definitions.

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*b*) "Board" means a Labour Exchange Board established under section 6;

(*c*) "contractor" in relation to unprotected workers, means a person who undertakes to execute any work for an establishment by engaging such workers on hire or otherwise, or who supplies such worker either in groups, gangs (*tollis*), or as individuals; and includes a sub-contractor, an agent, and such other professionals as may be named colloquially in various States;

(*d*) "employer" in relation to any unprotected workers engaged by or through contractor, means the principal employer and in relation to any other unprotected worker, the person who has ultimate control over the affairs of the establishment, and includes any other person to whom the affairs of such establishment are entrusted, whether such person is called an agent, manager or is called by any other name prevailing in the scheduled employment;

(*e*) "establishment" means any place or premises, including the precincts thereof, in which or in any part of which any scheduled employment is being or is ordinarily carried on;

(*f*) "family" in relation to an employer, means, the spouse, son, daughter, father, mother, brother or sister of such employer who lives with him and is wholly dependent on him;

(*g*) "Inspector" means an Inspector appointed under section 16;

(*h*) "principal employer" means an employer who engages unprotected workers by or through a contractor in the scheduled employment;

(*i*) "prescribed" means prescribed by rules made under this Act;

(*j*) "scheduled employment" means any employment specified in the Scheduled hereto or any process or branch of work forming part of such employment;

(*k*) "Scheme" means a Labour Exchange Scheme made under this Act;

(*l*) "unprotected worker" means a manual worker who is engaged or to be engaged in any scheduled employment;

(*m*) "worker" means a person who is engaged or to be engaged directly or through any agency, whether for wages or not, to do manual work in any scheduled employment and includes any person not employed by any employer or a contractor, but working with the permission of, or under agreement with the employer or contractor; but does not include the members of an employer's family; and

(*n*) "wages" means all remunerations expressed in terms of money or capable of being so expressed which would, if the terms of contract of employment, express or implied were, fulfilled, be payable to an unprotected worker in respect of work done in the establishment, but does not include—

(*i*) the value of any house accommodation, supply of light, water, medical attendance or any other amenity or any service excluded from the computation of wages by general or special order of the Central Government;

(*ii*) any contribution paid by the employer to any pension fund or provident fund or under any Scheme of social insurance and the interest which may have accrued thereon;

(*iii*) any travelling allowance or the value of any travelling concession;

(*iv*) any sum paid to the worker to defray special expenses entailed on him by the nature of his employment; or

(*v*) any gratuity payable on discharge.

Labour Exchange Scheme for Ensuring Regular Employment of unprotected Workers.

3. *(1)* For the purpose of ensuring an adequate supply and full and proper utilization of unprotected workers in scheduled employments, and generally for making better provisions for the terms and conditions of employment of such workers, appropriate Government shall formulate a Scheme to be known as the Labour Exchange Scheme for the registration of employers and unprotected workers in the scheduled employment, and to provide for the terms and conditions of work of registered unprotected workers, and make provision for the general welfare in such employments.

(*2*) In particular and without prejudice to the generality of the foregoing provisions, the Scheme may provide for—

(*a*) the application of the Scheme to such classes of registered unprotected workers and employers, as may be specified therein;

(*b*) defining the obligations of registered unprotected workers and employers subject to the fulfilment of which the exchange contract may apply to them;

(*c*) regulating the recruitment and entry into the exchange of unprotected workers, and the registration of unprotected workers and employers, including the maintenance of registers, removal, either temporarily or permanently, of names from the registers, and the imposition of fees for registration;

(*d*) regulating the employment of registered unprotected workers; and the terms and conditions of such employment, including rates of wages, hours of work, maternity benefit, overtime payment, leave with wages, provision for gratuity and conditions as to weekly and other holidays and pay in respect thereof;

(*e*) providing the time within which registered employers should remit to the Board the amount of wages payable to the registered workers for the work done by such workers;

(*f*) requiring such employers who, in the opinion of the Board, make default in remitting the amount of wages in time as mentioned in contract, to deposit with the Board, an amount equal to the monthly average of the wages to be remitted as mentioned in contract; if at any time the amount of such deposit falls short of such average, for requiring the employer to make good the amount of such average, and for requiring such employers who persistently make default in making such remittances in time to pay also by way of penalty, a surcharge of such amount not exceeding ten per cent. of the amount to be remitted as the Board may determine;

(*g*) securing that, in respect of period during which employment or full employment is not available to registered unprotected workers though they are available for work, such unprotected workers shall, subject to the conditions of the Scheme, receive a minimum wage;

(*h*) the welfare of registered unprotected workers covered by the Scheme in so far as satisfactory provision therefor, does not exist, apart from the Scheme;

(*i*) health and safety measures in places where the registered unprotected workers are engaged, in so far as satisfactory provision therefor, is required but does not exist, apart from the Scheme;

(*j*) the constitution of any fund or funds including provident fund for the benefit of registered unprotected workers, the vesting of such funds, the payment and contributions to be made to such funds, (provision for provident fund and rates of contribution being made after taking into consideration the provisions of the Employees' Provident Funds Act, 1952, and the Scheme framed thereunder with suitable

modifications, where necessary, to suit the conditions of work of such registered unprotected workers) and all matters relating thereto;

(*k*) the manner in which, the day from which (either prospective or retrospective) and the persons by whom, the cost of operating the Scheme is to be defrayed;

(*l*) constituting the persons or authorities who are to be responsible for the administration of the registration, and for the administration of funds constituted for the purposes aforesaid;

(*m*) specifying the powers and duties which the persons or authorities referred to in clause (*l*) may exercise or perform, for providing appeals and revision applications against the decisions or orders of such persons and authorities; and for deciding such appeals and applications and for matters incidental thereto;

(*n*) such incidental and supplementary matters, as may be necessary or expedient for giving effect to the purposes of a Scheme.

(*3*) The Scheme may further provide that a contravention of any provision thereof shall be punished with imprisonment for such term as may be specified (but in no case exceeding three months in respect of a first contravention or six months in respect of any subsequent contravention) or with fine which may extend to such amount as may be specified (but in no case exceeding five hundred rupees in respect of the first contravention, or one thousand rupees in respect of any subsequent contravention) or with both imprisonment and fine and if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

Making Variation and Revocation of Labour Exchange Schemes.

4. (*1*) The appropriate Government may, after consultation with the Advisory Committee, by notification in the Official Gazette and subject to the condition of previous publication, make one or more Scheme for any scheduled employment or group of scheduled employments, in one or more areas specified in the notification; and in like manner add to, amend, vary of substitute another Scheme for, any Scheme framed by it:

Provided that, no such notification shall come into force, unless a period of one month has expired from the date of publication in the Official Gazette:

Provided further that, the appropriate Government may—

(*a*) if it considers necessary, or

(*b*) if a demand or request is made by a majority of the employers or workers in any other scheduled employment that the provisions of the Scheme for exchanges so made for any scheduled employment or any part thereof shall be applied to such other scheduled employment, after consisting the employers and workers in such scheduled employment by notification in the Official Gazette, apply the provisions of such Scheme or part thereof to such scheduled employment, with such modification, if any, as may be specified in the notification.

Disputes Regarding Application of Scheme.

5. If any question arises whether any Scheme applies to any class of unprotected workers or employers, the matter shall be referred to the appropriate Government and the decision of the appropriate Government on the question, which shall be taken after consulting the Advisory Committee constituted under section 15, shall be final.

Constitution of Board.

6. *(1)* The appropriate Government may, by notification in the Official Gazette, establish a Board to be known as the Labour Exchange Board for carrying out the provisions of this Act:

Provided that one or more Board may be appointed for one or more scheduled employments, and for one or more areas.

(*2*) Every Board shall be a body corporate with the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, and to contract, and may by that name, sue or be sued.

(3) The Board shall consist of members nominated from time to time by the appropriate Government representing the employers, the unprotected workers, and the appropriate Government.

(*4*) The members representing employers and unprotected workers shall be equal in number, and the members representing the appropriate Government shall not exceed one-third of the total number of members representing employers and unprotected workers.

(*5*) The Chairperson of the Board shall be one of the members appointed to represent the appropriate Government, nominated in this behalf by the appropriate Government.

(*6*) After nomination of all the members of the Board including the Chairperson the appropriate Government shall, by notification in the Official Gazette, publish the names of all the members of the Board.

(7) The salary and allowances payable to and other terms and conditions of service of every member (not being a member representing the appropriate Government) shall be such as may be prescribed.

(*8*) The meetings of the Board and procedure to be followed for the purpose and all matters supplementary or ancillary thereto shall, subject to the approval of the appropriate Government, be regulated by the Board itself.

Power of appropriate Government to appoint Board consisting of one person.

7. (*1*) Where by reason of employers or unprotected workers in any scheduled employment refuses to nominate persons for representing them on the Board or for any reasons whatsoever, it appears to the appropriate Government that it is unable to constitute a Board for such scheduled employment in accordance with the provisions of section 6, the appropriate Government may, by notification in the Official Gazette, appoint a person who shall hold office until a Board is duly constituted under section 6 for such scheduled employment.

(*2*) The person so appointed shall be deemed to constitute the Board for the time being, and shall exercise all the powers and perform and discharge all the duties and functions conferred and imposed upon the Board by or under this Act and he shall continue in office until the day immediately preceding the date of the first meeting of such Board.

(*3*) The person constituting the Board shall receive such remuneration from the fund of the Board, and the terms and other conditions of service shall be such as the appropriate Government may determine.

Powers and duties of Board.

8. (*1*) The Board shall be responsible for administering each labour exchange Scheme with respect to which it has been set up, and shall exercise such powers and perform such functions as may be conferred on it by the Scheme.

(*2*) The Boards in general shall be responsible for maintaining a register of all workers employed in the scheduled employment with respect to which the board has been set up.

(*3*) The Board shall also maintain a register of employers and contractors.

(*4*) The Board shall endeavour to facilitate employment of unprotected workers by liaisoning with prospective employers registered with it and providing employers with the names of workers registered for a particular scheduled employment.

(*5*) The Board shall be responsible for monitoring compliance with the Scheme by employers.

(*6*) The Board shall submit to the appropriate Government, as soon as may be, after the 1st of April every year, and not later than the 31st day of October, an annual report on the working of the Scheme during the preceding year ending on 31st day of March of that year.

(*7*) Every report received under sub-section (6) shall be laid as soon as may be after it is received before each House of the State Legislature if it is in session, or in the session immediately following the date of receipt of the report.

(*8*) In exercise of the powers and discharge of its functions, the board shall be bound by such directions as the appropriate Government may, for reason to be appropriated in writing, give to it from time to time.

Accounts and audit.

9. (*1*) The Board shall maintain proper accounts and other relevant record and prepare an annual statement of accounts, including a balance-sheet in such form as may be prescribed.

(*2*) The accounts of the Board shall be audited annually by such qualified person as the appropriate Government may appoint in this behalf.

(*3*) The auditor shall at all reasonable times have access to the books of accounts and other documents of the Board, and may for the purposes of the audit, call for such explanation and information as he may require, or examine any member or officer of the Board.

(*4*) The accounts of the Board certified by the auditor, together with the audited report thereon shall be forwarded annually to the appropriate Government before such date as the appropriate Government may specify in this behalf.

(*5*) The Board shall comply with such directions as the appropriate Government may, after perusal of the report of the auditor, think fit to issue.

(*6*) The cost of audit, as determined by the appropriate Government, shall be paid out of the funds of the Board.

Disqualifications and removal.

10. (*1*) No person shall be chosen as, or continue to be, a member of the Board who—

(*a*) is a salaried officer of the Board; or

(*b*) is or at any time has been adjudged insolvent; or

(*c*) is found to be a lunatic or becomes of unsound mind; or

(*d*) is or has been convicted of any offence involving moral turpitude.

(2) The appropriate Government may remove from office any member, who—

(*a*) is or has become subject to any of the disqualifications mentioned in sub-section (*1*); or

(*b*) is absent without leave of the Board for more than three consecutive meetings of the Board.

(*3*) Notwithstanding anything contained in sub-sections (*5*) and (*7*) of section 6 or other provisions of this Act or the rules made thereunder, the members (including the Chairperson), shall hold office during the pleasure of the appropriate Government and, if in the opinion of the appropriate Government,—

(*a*) the member representing the employers or the unprotected workers, ceases to adequately represent the employers, or as the case may be, the unprotected workers; or

(*b*) having regard to the exigencies of circumstances or service in the appropriae Government, the member (including the Chairperson) representing the appropriate Government cannot continue to represent the appropriate Government, the appropriate Government may, by order remove all or any of them (including the Chairperson) from office at any time.

Resignation of office by member.

11. Any member of the Board may at any time resign his office by writing under his hand addressed to the appropriate Government, and his office shall, on acceptance of resignation, become vacant.

Vacancy to be filled as early as possible.

12. In the event of any vacancy occurring on account of death, resignation, disqualification or removal or otherwise, the Board shall forthwith communicate the occurrence to the appropriate Government, and the vacancy shall be filled not later than ninety days from the date of the occurrence of the vacancy, and the person nominated to fill in the

vacancy shall hold office so long only as the member in whose place he is nominated would have held it if the vacancy had not occurred:

Provided that, during any such vacancy, the continuing members may act as if no vacancy has occurred.

Proceedings presumed to be good and valid.

13. No act or proceeding of the Board shall be questioned or invalidated merely by reason of any vacancy in its membership or by reason of any defect in the constitution thereof.

Determination of moneys due from employers and workers.

14. (*1*) The Board or such officer as may be specified by it in this behalf may, by order, determine any sum due from any employer or worker under this Act or any Scheme made thereunder, and for this purpose may conduct such inquiry as the Board or such officer may think to be necessary.

(*2*) The Board or such officer, conducting the inquiry under sub-section (*1*) shall, for the purposes of such inquiry, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, for trying a suit in respect of the following matters, namely:—

(*a*) enforcing the attendance of any person or examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavit;

(*d*) issuing commissions for the examination of witnessess: and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code, 1860. 45 of 1860.

(*3*) No order determining the sum from any employer or worker shall be made under sub-section (*1*), unless the employer or worker, as the case may be, is given a reasonable opportunity of representing his case.

(*4*) An order made under this section shall be final and shall not be questioned in any Court.

(*5*) Any sum determined under this section may, if such sum is in arrears, be recovered as an arrear of land revenue.

Advisory Committee.

15. *(1)* The appropriate Government may, by notification in the Official Gazette, constitute an Advisory Committee to advise upon such matters arising out of the administration of this Act or any Scheme made under this Act or relating to the application of the provisions of this Act to any particular class of unprotected workers and employers, or co-ordination of the work of various Boards, as the Advisory Committee may itself consider to be necessary or as the appropriate Government may refer to it for advice.

(*2*) The members of the Advisory Committee shall be appointed by the appropriate Government and shall be of such number and chosen in such a manner as may be prescribed by rules made under this Act:

Provided that, the Advisory Committee shall include an equal number of members representing employers, workers and the Legislature of the State and members representing the appropriate Government not exceeding one-fourth of its total number of members.

(*3*) The Chairperson of the Advisory Committee shall be one of the members appointed to represent the appropriate Government, nominated in this behalf by the appropriate Government.

(*4*) The appropriate Government shall publish in the Official Gazette, the names of all members of the Advisory Committee.

(*5*) The meetings of the Advisory Committee and procedure to be followed for the purpose shall be regulated according to rules made under this Act.

(6) The salary and allowances payable to and other terms and conditions of service of every member of the Advisory Committee (not being a member representing the appropriate Government) shall be such as may be prescribed.

Inspectors and their powers.

16. *(1)* The Board may appoint such persons as it thinks fit to be Inspectors possessing the prescribed qualifications for carrying out the purposes of this Act or of any Scheme and may define the limits of their jurisdiction.

(*2*) Subject to any rules made by the appropriate Government in this behalf, an Inspector may—

(*a*) enter and search at all reasonable hours, with such assistants as he thinks fit, any premises or place, where unprotected workers are employed, or work is given out to unprotected workers in any scheduled employment, for the purpose of examining any register, record of wages or notices required to be kept or exhibited under any Scheme, and require the production thereof, for inspection;

(*b*) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is an unprotected worker employed therein or an unprotected worker to whom work is given out therein;

(*c*) require any person giving any work to an unprotected worker or to a group of unprotected workers to give any information, which is in his power to give, in respect of the names and addresses of the persons to whom the work is given, and in respect of payments made, or to be made, for the said work;

(*d*) seize or take copies of such registers, records of wages or notices or portions thereof, as he may consider relevant, in respect of an offence under this Act or Scheme, which he has reason to believe has been committed by an employer; and

(*e*) exercise such other powers as may be prescribed:

Provided that, no one shall be required under the provisions of this section to answer any question or made any statement tending to incriminate himself.

(*3*) Every Inspector appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860.

Central Government to provide adequate Funds.

17. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the State Governments for carrying out the purposes of this Act.

Prohibition of employment of child.

18. No child shall be required or allowed to work in any scheduled employment.

Explanation.— For the purposes of this section 'child' means a person who has not completed fourteen years of age.

Offence to be tried by labour court.

19. Every offence punishable by or under this Act (including any offence made punishable by a Scheme made under this Act) shall be tried by the Labour Court, within the local limits of whose jurisdiction the offence was committed.

Cognizance of offence on complaint.

20. No Labour Court shall take cognizance of any offence punishable by an Inspector or by a person specially authorised in this behalf by the Board or the appropriate Government.

Appeal from labour court to industrial court.

21. (*1*) Notwithstanding anything contained in this Act, an appeal shall lie to the Industrial Court,—

(*a*) against a conviction by a Labour Court, by the person convicted;

(*b*) against an acquittal by a Labour Court, by the complainant;

(*c*) for enhancement of a sentence awarded by the Labour Court by the appropriate Government.

(*2*) Every appeal shall be made within thirty days from the date of the conviction, acquittal or sentence, as the case may be:

Provided that, the Industrial Court may, for sufficient reasons to be recorded in writing allow an appeal after the expiry of the said period.

Time limit for disposal of appeal by labour court.

22. (*1*) An endeavour shall be made by the Labour Court to hear and dispose of a complaint of an offence punishable by or under the Act, as far as possible, within three months from the date the complaint is made to it.

(*2*) An endeavour shall be made by the Industrial Court to hear and dispose of any appeal or reference made to it under this Act, as far as possible, within three months from the date such appeal or reference is made to it.

Application of Workmen's Compensation Act, 1923 to unprotected workers.

23. The provisions of the Workmen's Compensation Act, 1923, and the rules made from time to time thereunder, shall *mutatis matandis* apply to registered unprotected workers employed in any scheduled employment to which this Act applies and for that purpose they shall be deemed to be workmen within the meaning of that Act and in relation to such workmen, employer shall mean where a Board makes payment of wages to any such workmen, the Board, and in any other case, the employer as defined in this Act. 8 of 1923.

Application of the Payment of Wages Act, 1936 to unprotected workers.

24. (*1*) Notwithstanding anything contained in the Payment of Wages Act, 1936, (hereinafter referred to in this section as "the said Act"), the appropriate Government may, by notification in the official Gazette, direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to all or any class of registered unprotected workers employed in any scheduled employment to which this Act applies, with the modification that in relation to registered unprotected workers employer shall mean where a Board makes payment of wages to any such worker, the Board, and in any other case, the employer as defind in this Act and on such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of such provisions of the said Act within the local limits of his jurisdiction.

(*2*) The appropriate Government may, only if the Advisory Committee so advises, by a like notification cancel or vary any notification issued under sub-section (*1*).

Application of Maternity Benefit Act, 1961 to unprotected women workers.

25. Notwithstanding anything contained in the Maternity Benefit Act, 1961 (hereinafter referred to in this section as "the said Act") the appropriate Government may, by notification in the official Gazette, direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to registered unprotected women workers employed in any scheduled employment to which this Act applies and for that purpose they shall be deemed to be women within the meaning of the said Act; and in relation to such women employer shall mean where a Board makes payment of wages to such women, the Board; and in any other case, the employer as defined in this Act; and on such application of the provision of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of enforcement of such provisions of the said Act within the local limits of his jurisdiction. 53 of 1961.

Rights and privileges under other laws not affected in certain cases.

26. Nothing contained in this Act shall affect any rights or privileges, which any registered unprotected worker employed in any scheduled employment is entitled to, on the date on which this Act comes into force, under any other law, contract, custom or usage applicable to such workers, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act and the Scheme:

Provided that, such worker will not be entitled to receive any corresponding benefit under the provisions of this Act and the Scheme.

Enquiry into working of the Board.

27. (*1*) The appropriate Government may at any time appoint any person to investigate or enquire into the working of any Board or Scheme and submit a report to the apprpriate Government in that behalf.

(*2*) The Board shall give to the person so appointed all facilities for the proper conduct of their investigation or inquiry, and furnish to him such documents, accounts or information in possession of the Board as he may require.

(*3*) Any person so appointed to investigate or inquire into the working of any Board or Scheme may exercise all the powers of an Inspector appointed under this Act.

Supersession of the Board.

28. (*1*) If the appropriate Government, on consideration of the report referred to in sub-section (*1*) of section 25 or otherwise, is of the opinion—

(a) that the Board is unable to perform its functions; or

(b) that the Board has persistently made default in the discharge of its functions or has exceeded or abused its powers, the appropriate Government may, by notification in the official Gazette, supersede the Board and constitute it in the prescribed manner, within a period of twelve months from the date of supersession,

the period of supersession may be extended for sufficient reasons by a like notification by not more than six months:

Provided that, before issuing a notification under this sub-section on any of the grounds mentioned in clause (*b*), the appropriate Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded, and shall consider the explanations and objections, if any, of the Board.

(*2*) After the supersession of the Board and until it is reconstituted, the powers, duties and functions of the Board under this Act shall be exercised and performed by the appropriate Government, or by such officer or officer's as the appropriate Government may appoint for this purpose.

(*3*) When the Board is superseded the following consequences shall ensue, that is to say—

(*a*) all the members of the Board shall, as from the date of publication of the notification under sub-section (*1*) vacate their office;

(*b*) all the powers and functions, which may be exercised or performed by the Board shall, during the period of supersession be exercised or performed by such persons as may be specified in the notification;

(*c*) all funds and other property vesting in the Board shall, during the period of supersession, vest in the appropriate Government and on the reconstitution of the Board, such funds and property shall revest in the Board.

Contracting out.

29. Any contract or agreement, whether made before or after the commencement of this Act, whereby a registered unprotected worker relinquishes any right conferred by, or any privilege or concession accruing to him under this Act or any Scheme, shall be void and of no effect in so far as it purports to deprive him of such right or privilege or concession.

Amendment of Schedule.

30. The appropriate Government may, by notification in the official Gazette not less than three months' notice of its intention so to do, modify any item of the Schedule or add to the Schedule any employment in respect of which it is of opinion that the provisions of this Act should apply to such employment as modified or added.

General penalty for offences.

31. Save as otherwise expressly in this Act, any person, who contravenes any of the provisions of this Act or any rule made thereunder shall, on conviction by a Labour Court or the Industrial Court, be punished with fine which may extend to five hundred rupees, and in case of continued contravention thereof, with an additional fine which may extend to one hundred rupees per day for every day during which such contravention continues.

Power to make rules.

32. (*1*) The appropriate Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Paliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(*3*) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature.

THE SCHEDULE

[*See* section 2(j)]

1. Employment in Iron and Steel Market or shops in connection with loading, unloading, stacking, carrying, weighing, measuring or such other work including work preparatory or such operations.

2. Employment in Cloth and Cotton Markets or shops in connection with loading, unloading, stacking, carrying, weighing, [1][measuring, filling, stitching, sorting, cleaning or such other work] including work preparatory or incidental to such operations.

3. Employment in docks in connection with loading, unloading, stacking, carrying, weighing, measuring or such other work including work preparatory or incidental to such operations.

4. Employment in Grocery Markets or shops, in connection with loading, unloading, stacking, carrying, weighing, measuring, filling, stitching, sorting, cleaning or such other work including work preparatory or incidental to such operations.

5. Employment in markets, and factories and other establishment in connection with loading, unloading, stacking, weighing, measuring, filling, stitching, sorting, cleaning or such other work including work preparatory or incidental to such operations carried on by workers not covered by any other entries in this Schedule.

6. Employment in railway yards and goods-sheds in connection with loading, unloading, stacking, weighing, measuring or such other work preparatory or incidental to such operations by workers who are not employed by Railway Authorities.

7. Employment in connection with loading of goods into public transport vehicle or unloading of goods therefrom and any other operation incidental and connected thereto.

8. Employment in vegetable markets (including onions and potatoes markets) in connection with loading, unloading, stacking, carrying, weighing, measuring, filling, stitching, sorting, cleaning or such other work including work preparatory or incidental to such operations.

9. Employment in markets or subsidiary markets in connection with loading, unloading, stacking, carrying, weighing, measuring, filling, stitching, sorting, cleaning or such other work including work preparatory or incidental to such operations.

10. Employment in Khokha making, and in timber market.

11. Employment in salt pans.

12. Employment in fishing industry.

13. Employment in connection with the loading, unloading and carrying of foodgrains into godowns sorting and cleaning of foodgrains, filling foodgrains in bags, stitching of such bags and such other work incidental and connected thereto.

14. Employment in establishment engaged in cleaning, sorting, loading, unloading, stacking, carrying, weighing, measuring, stitching, filling of onions or onions bags and other produce and such other work including the work preparatory or incidental or such operations.

15. Employment in brick kilns, beedi making, incense making and other allied industries.

16. Employment in roadside dhabas and other eateries and food stalls.

17. Employment in cleaning, sweeping, garbage collecting and other sanitation work.

18. Domestic workers.

STATEMENT OF OBJECTS AND REASONS

India has a large informal economy. At present, only ten percent. of India's over 470 million workforce is in the organised sector while the remaining are unorganised and do not receive the benefits of labour regulations and welfare legislations. Most workers in India's informal economy are seasonal and circular migrants who stay at the work site for a certain period, and then either go back to their homes or move on to other work locations. Most of them perform jobs that are not accounted for in the traditional work force and are not covered by existing labour regulations such as lifting heavy objects, cleaning and providing manual labour. According to the International Labour Organization most of this work force falls under the unacceptable forms of work as defined by it. These workers are often recruited by labour contractors in mass and face severe exploitation as they are subject to unregulated and unsafe working conditions without having any legal recourse.

There have been many efforts at addressing the specific problems faced by workers in the unorganised sector. Several legislations like the Contract Labour (Regulation and Abolition) Act, 1979, the Unorganized Workers Social Security Act, 1996, etc. were brought into force seeking to extend social protection to unorganised sector workers. However, they have been largely unsuccessful and insufficient with respect to bringing the workers in the informal economy at par with those in the formal economy.

However, one such initiative has been successful in the State of Maharashtra. In the State of Maharashtra, under the Maharashtra Mathadi. Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969 a class of manual workers known as *Mathadis* are organised under a welfare Board which regulates the working conditions and provides them with social security. These Boards were highlightes as a positive example in an International Labour Organization global and comparative study on Unacceptable Forms of Work.

Whereas, it is necessary that the success of the labour board system in the State of Maharashtra be replicated at the national scale in order to provide social security to informal labour and to safeguard them from exploitation.

Hence this Bill.

NEW DELHI;
December 5, 2016.

FEROZE VARUN GANDHI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that appropriate Government shall formulate a Scheme to be known as the Labour Exchange Scheme for the registration of employers and unprotected workers in the scheduled employment, and to provide for the terms and conditions of work of registered unprotected workers, and make provision for their general welfare. Clause 6 provides for establishment of Labour Exchange Boards by the appropriate Government. Clause 15 provides for constitution of Advisory Committees by the appropriate Government. Clause 16 provides that the Board may appoint Inspectors for carrying out the purposes of this Bill. Clause 17 provides that the Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the State Governments for carrying out the purposes of this Act. Although, the expenditure relating to States shall be borne out of the Consolidated Funds of the respective States. The expenditure relating to Union Territories shall be borne by the Central Government. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. Though, at this stage, it is difficult to assess the exact expenditure, it is estimated that a sum of rupees Fourteen Crores would be involved as recurring expenditure per annum.

A non-recurring expenditure of about rupees Twenty Five Crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 32 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 8 OF 2017

A Bill to regulate the manner in which the Central Government shall enter into and implement any international treaty, agreement, convention or covenants with countries and for matters connected therewith.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Regulation of International Treaties, Agreements, Conventions and Covenants Act 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this act, unless the context otherwise requires,—

(*a*) "prescribed" means prescribed by rules made under this Act;

(*b*) "stakeholder" means persons or community affected by or intended to be affected by the international treaty, convention or agreement and includes a State Governments; and

Constitution of an Expert Committee to examine international treaty, etc.

3. *(1)* The Central Government shall, by notification in the Official Gazette, constitute a Committee to be known as the Expert Committee to examine the pros and cons of International Treaties, Agreements, Conventions and Covenants to be signed by the Government of India.

(2) The Expert Committee shall consist of such number of experts including representatives of the State Governments having expertise in the field of International Law to be appointed by the Central Government in such manner as may be prescribed.

Publicity of the details of any International Treaty, Agreement, Convention and Covenant.

4. The Central Government shall, by notification in the Official Gazette, publicize the details of any International Treaty, Agreement, Convention and Covenant to be signed by the Government of India.

Functions of the Expert Committee.

5. The Expert Committee shall—

(*a*) initiate wide consultation on the contents of the instrument of International Treaty, Agreement, Covention or Convenant to be signed by the Government of India with stakeholders and others and publish its comments with explanations as regards the objectives, commitment and the national interests to be protected by signing such International Treaty, Agreement, Convention and Covenant;

(*b*) create awareness amongst the citizens as regards effects of the International Treaty, Agreement, Convention or Covenant to be signed by the Government of India with proper examples for public deliberations;

(*c*) make available the outcome of the consultation with the stakeholders and others to the Members of the Parliament, who shall take into consideration the outcome of consultations while deliberating and voting on ratification of any and the International Treaty, Agreement, Convention or Covenant.

6. The Central Government shall not enter into and implement any International Treaty, Agreement, Convention or Covenant unless it has been ratified by resolutions by each House of Parliament.

Power to make rules.

7. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

(*2*) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Articles 73 and 253 of the Constitution deal with the power of the executive to enter into International Treaties, Agreement, Convention and Covenants and the power of the Parliament to enact laws for giving effect to such instruments, respectively. Unfortunately our Parliament has not passed any law for regulating the procedure for entering into International Treaties, Agreement, Convention and Covenants. There is no Constitutional obligation on the executive to get International Treaties, Agreement, Convention and Covenants ratified by Parliament. There can be no dispute with the proposition that the International Treaties, Agreement, Convention and covenants may contain clauses having deleterious impact on the lives of the people living throughout India or in a particular region or a State. The stake holders who are affected by the clauses of the International instruments do not have any say in such exercise. From the experiences on hand, it is advisable for having wide consultations among the stakeholders before giving legal effect to an international commitment which affects the right of the people especially vulnerable and weaker sections of the society. Therefore, it is highly necessary to have a comprehensive enactment regulating the powers to the executive in entering International Treaties, Agreement, Convention and Covenants.

The Bill seeks to achieve the above objectives.

NEW DELHI; JOICE GEORGE

December 14, 2016.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that Central Government shall constitute an Expert Committee to examine pros and cons and to regulate the International Treaty, Agreement, Convention and Covenants to be signed by the Government of India. It also provides for appointment of experts in the Expert Committee. Clause 4 provides for publicity of the details of any International Treaty, Agreement, Convention and Covenant. The Bill, therefore, if enacted, would involve the expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees Ten Lakhs per annum would involve from the Consolidated Fund of India.

A non-recurring expenditure of about rupees Fifteen Lakhs is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 9 OF 2017

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 253.

2. In article 253 of the Constitution, the following proviso shall be added at the end, namely:—

"Provided that a treaty, agreement, convention or decision affecting the interests of one or more States of India, shall be implemented only if it is ratified by the legislatures of affected States by passing of resolutions to that effect.".

STATEMENT OF OBJECTS AND REASONS

The power to enter into treaties, agreements and covenants or conventions is vested with the executive. There can be no dispute with the proposition that a treaty, agreement, covenant or convention may contain clauses having deleterious effect on our economy and the life and livelihood of our citizens. In a federal system, the clauses of agreements, treaties, covenants and conventions may have very serious impact on the lives of the people living in a particular region or a State. But there is no mechanism in our Constitution to consider the opinion of the people who are affected by the laws enacted to give effect to international commitments. Hence, it is necessary to have a constitutional provision requiring ratification of treaties or agreements or conventions entered into by India, with other countries or multilateral organisations affecting the interests of States by Legislatures of those States by passing of resolutions to that effect before implementation of such treaties, agreements or conventions.

Hence this Bill.

NEW DELHI;
December 14, 2016.

JOICE GEORGE

BILL NO. 29 OF 2017

A Bill to provide for the segregation and recycling of plastic item; use of re-cyclable plastic in recycle units and for matters connected therewith.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Plastic Recycling Act, 2017.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government.

(*b*) "large manufacturing facility" means any manufacturing facility with an investment of more than rupees thirty crores;

(*c*) "municipal authority" means Municipal Corporation, Municipality, Nagar Palika, Nagar Nigam, Nagar Panchayat, Municipal Council including Notified Area Committee (NAC) or any other local body constituted under the relevant statutes and entrusted with the responsibility of management and handling of municipal solid waste;

(*d*) "plastic" means any material which contains artificial resins (polymers) extracted from petroleum products and includes plastic monomer prepared with ammonia, chlorine, plutons, carbon, hydrogen, oxygen and sulpher molecules.

(*e*) "plastic generating unit" means any entity, household or a large manufacturing facility where plastic waste, which is recyclable, is generated;

(*f*) "plastic item" means any item or product which is made of plastic and used for storing food, liquid or any consumable or such other product as the Central Government may, by notification in Official Gazette, specify;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "recycle unit" means a unit where recyclable plastic items are treated using different techniques to produce re-usable plastic items or any form of energy; and

(*i*) "segregation" means separation of plastic items into re-cyclable and non-re-cyclable plastic items.

Compliance criteria and procedure for recycling of plastic items.

3. The appropriate Government shall, in consultation with the Central Pollution Control Board prescribe the compliance criteria and procedure for recycling of plastic items in such manner as may be prescribed.

Duty of the municipal authority.

4. It shall be the duty of the municipal authority to—

(*a*) ensure collection of segregated plastic items from the plastic generating units; and

(*b*) ensure that the segregated plastic items collected and transported are not mixed with any other waste or any material, to the extent the mixing would hamper its re-use, re-cycle, further treatment or its use in re-cycle unit.

Penalty.

5. Whoever violates the provisions of this Act shall be punished with imprisonment for a term which may extend up to six months and fine which may extend up to fifty thousand rupees.

Central Government to provide requisite sums.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite sums to the State Governments for carrying out the purposes of this Act.

Act not in derogation of any other law.

7. The provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force.

Power to make rules.

8. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the

expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Each and every form of plastic item is hazardous to our environment. At present, accelerated production of plastic items and slow pace of their recycling is hazardous to our environment and human beings as well. Plastic items are being produced and used indiscriminately. While the recycling process of used plastic is very slow and the burden of waste plastic is constantly increasing on earth. At present, there is a large gap between the ratio of production of new plastic items and the collection and recycling of waste plastic.

Therefore, the entire ecological system should be saved by ensuring management of plastic waste and setting up of plastic waste recycling unit in each State. There is a need to maintain environmental balance by slowing down the production of new plastic item and acceleration of the pace of renewal of waste plastic.

Hence this Bill.

NEW DELHI;
January 1, 2017.

AJAY MISRA 'TENI'

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides that Central Government shall provide funds to the State Governments for carrying out the purposes of the Act. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about three thousand crores per annum would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is, therefore, of a normal character.

BILL NO. 31 OF 2017

A Bill further to amend the Wild Life (Protection) Act, 1972.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Wild Life (Protection) Amendment Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new Chapter IV D.

53 of 1972

2. After Chapter IVC of the Wild Life (Protection) Act, 1972 (hereinafter referred to as the principal Act), the following Chapter and sections thereunder shall be inserted, namely:—

"CHAPTER IVD

NATIONAL RHINO CONSERVATION AUTHORITY

Definitions.

38ZA. In this Chapter,—

(*a*) "National Rhino Conservation Authority" means the Rhino Conservation Authority constituted under section 38ZB;

(*b*) "Steering Committee" means the Committee constituted under section 38ZJ;

(*c*) "Rhino Conservation Foundation" means the foundation established under section 38ZM;

(*d*) "Rhino Reserve State" means a State having rhino reserve; and

(*e*) "Rhino Reserve" means the area notified as such under section 38ZK.

Constitution of National Rhino Conservation Authority.

38ZB. *(1)* The Central Government shall constitute an authority to be known as the National Rhino Conservation Authority (hereinafter in this Chapter referred to as the Rhino Conservation Authority), to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

(*2*) The Rhino Conservation Authority shall consist of the following members, namely:—

(*a*) the Minister in charge of the Ministry of Environment, Forest and Climate Change—Chairperson;

(*b*) the Minister of State in the Ministry of Environment, Forest and Climate Change—Vice Chairperson;

(*c*) two members of Parliament of whom one shall be elected by the House of the People and one by the Council of States;

(d) four experts or professionals having prescribed qualifications and experience in conservation of wildlife and welfare of people living in rhino reserve out of which at least one shall be from the field of tribal development;

(*e*) Secretary, Ministry of Environment, Forest and Climate Change;

(*f*) Director General of Forests and Special Secretary, Ministry of Environment, Forest and Climate Change;

(*g*) Director, Wild Life Preservation, Ministry of Environment, Forest and Climate Change;

(*h*) three Chief Wild Life Wardens from the rhino reserve States in rotation for three years;

(*i*) an officer not below the rank of Joint Secretary and Legislative Counsel from the Ministry of Law and Justice;

(*j*) an officer not below the rank of Joint Secretary from the Ministry of Home Affairs;

(*k*) Secretary, Ministry of Tourism;

(*l*) Secretary, Ministry of Tribal Affairs;

(*m*) Secretary, Ministry of Social Justice and Empowerment;

(*n*) Chairperson, National Commission for the Scheduled Tribes;

(*o*) Chairperson, National Commission for the Scheduled Castes;

(*p*) Secretary, Ministry of Panchayati Raj;

(*q*) Inspector General of Forests or an officer of the equivalent rank having at least ten years of experience in a rhino reserve or wildlife management, who shall be the Member-Secretary,

to be notified by the Central Government, in the Official Gazette.

(*3*) It is hereby declared that the office of member of the Rhino Conservation Authority shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

Term of Office and Conditions of service of Members.

38ZC. (*1*) A member nominated under clause (*d*) of sub-section (*2*) of section 38ZB shall hold office for such period not exceeding three years:

Provided that a member may, by writing under his hand addressed to the Central Government, resign from his office.

(*2*) The Central Government shall remove a member referred to in clause (*d*) of sub-section (*2*) of section 38ZB, from office if he—

(*a*) is, or at any time has been, adjudicated as insolvent;

(*b*) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;

(*c*) is of unsound mind and stands so declared by a competent court;

(*d*) refuses to act or becomes incapable of acting;

(*e*) is, without obtaining leave of absence from the Rhino Conservation Authority, absent from three consecutive meetings of the said Authority; or

(*f*) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest:

Provided that no member shall be removed under this sub-section unless he has been given a reasonable opportunity of being heard in the matter.

(*3*) Any vacancy in the office of a member shall be filled by fresh appointment and such member shall continue for the remainder of the term of the member in whose place he is appointed.

(4) The Salaries and allowances and other conditions of appointment of the members of the Rhino Conservation Authority shall be such as may be prescribed.

(5) No act or proceeding of the Rhino Conservation Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Rhino Conservation Authority.

Powers and functions of the Rhino Conservation Authority.

38ZD. (*1*) The Rhino Conservation Authority shall have the following powers and perform the following functions, namely:—

(*a*) to approve the Rhino Conservation Plan prepared by the State Government under sub-section (*3*) of section 38ZK of this Act;

(*b*) to evaluate and assess various aspects of sustainable ecology and disallow any ecologically unsustainable land use such as, mining, industry and other projects within the rhino reserves;

(*c*) to lay down normative standards for tourism activities and guidelines for project rhino from time to time for rhino conservation in the buffer and core area of rhino reserves and ensure their due compliance;

(*d*) to provide for management focus and to emphasise on co-existence in forest areas outside the National Parks, sanctuaries or rhino reserve, in the working plan code;

(e) to provide information on protection measures including future conservation plan, estimation of population of rhino, status of habitats, disease surveillance, mortality survey, patrolling, reports on untoward happenings and such other management aspects as it may deem fit including future plan conservation;

(f) to approve, co-ordinate research and monitoring on rhino, habitat related ecological and socio-economic parameters and their evaluation;

(*g*) to ensure that the rhino reserves and areas linking one protected area or rhino reserve with another protected area or rhino reserve are not diverted for ecologically unsustainable uses, except in public interest and with the approval of the National Board for WildLife and on the advice of the Rhino Conservation Authority.

(*h*) to facilitate and support the rhino reserve management in the State for bio-diversity conservation initiatives through eco-development and people's participation as per approved management plans and to support similar initiatives in adjoining areas consistent with the Central and State laws;

(*i*) to ensure critical support including scientific, information technology and legal support for better implementation of the rhino conservation plan;

(*j*) to facilitate ongoing capacity building programme for skill development of officers and staff of rhino reserves;

(*k*) to coordinate with foreign countries and international organizations regarding conservation of rhinos and their habitat by technology sharing and monitoring methods and also in regard to measures against poaching of rhinos;

(*l*) to promote awareness of greater one-horned rhinos and their importance as a part of school education and conduct awareness campaigns across the country about rhinos and their conservation; and

(*m*) to perform such other functions as may be necessary to carry out the purposes of this Act with regard to conservation of rhinos and their habitat.

(*2*) The Rhino Conservation Authority may, in the exercise of its powers and performance of its functions under this Chapter, issue directions in writing to any person, officer or authority for the protection of rhino or rhino reserves and such person, officer or authority shall be bound to comply with the directions:

Provided that no such direction shall interfere with or affect the rights of local people particularly the Scheduled Tribes.

Meetings of the Rhino Conservation Authority and its regulations.

38ZE. (*1*) The Rhino Conservation Authority shall meet at such time and at such place as the Chairperson may think fit.

(*2*) The Chairperson or in his absence the Vice-Chairperson shall preside over the meetings of the Rhino Conservation Authority.

(*3*) The Rhino Conservation Authority shall regulate its own procedure.

(*4*) All orders and decisions of the Rhino Conservation Authority shall be authenticated by the Member-Secretary or any other officer of the said authority duly authorised by the Member-Secretary in this behalf.

Central Government to provide grants to the Rhino Conservation Authority and constitution of Rhino Conservation Authority Fund.

38ZF. *(1)* The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Rhino Conservation Authority grants and loans of such sums of money as that Government may consider necessary.

(2) There shall be constituted a Fund to be called the Rhino Conservation Authority Fund and there shall be credited thereto—

(i) any grants and loans made to the Rhino Conservation Authority by the Central Government;

(ii) all fees and charges received by the Rhino Conservation Authority under this Act; and

(iii) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(3) The fund referred to in sub-section (2) shall be applied for meeting salary, allowances and other remuneration of the members, officers and other employees of the Rhino Conservation Authority and the expenses of the Rhino Conservation Authority incurred in the discharge of its functions under this Chapter.

Maintenance of Accounts and Audit by Comptroller and Auditor General of India

38ZG. (*1*) The Rhino Conservation Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Rhino Conservation Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Rhino Conservation Authority to the Comptroller and Auditor-General of India.

(*3*) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Rhino Conservation Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Rhino Conservation Authority.

(*4*) The Accounts of the Rhino Conservation Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government by the Rhino Conservation Authority.

Annual Report of Rhino Conservation Authority.

38ZH. The Rhino Conservation Authority shall prepare in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and to forward a copy thereof to the Central Government.

Annual Report and Audit Report to be laid before Parliament.

38ZI. The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Central Government, and the reasons for the non-acceptance, if any, of any of such recommendations, and the audit report to be laid, as soon as may be after the reports are received, before each House of Parliament.

Constitution of the Steering Committee.

38ZJ. *(1)* The State Government may constitute a Steering Committee for ensuring coordination, monitoring, protection and conservation of rhino in the rhino range State.

(2) The Steering Committee shall consists of—

(a) the Chief Minister—Chairperson;

(*b*) the Minister in-charge of Wildlife—Vice-Chairperson;

(*c*) the Minister of Home Affairs;

(*d*) the Dirctor General of Police;

(*e*) such number of official members not exceeding three including at least one Field Directors of rhino reserve or Director of National Park and one from the State Government's Department dealing with tribal affairs;

(f) two experts or professionals having qualifications and experience in conservation of wildlife of which one shall be from the field of tribal development;

(*g*) one member from the State's Tribal Advisory Council;

(*h*) one representative each from State Government's Departments dealing with panchayati Raj and Social Justice and Empowerment;

(*i*) Chief Wildlife Warden of the State shall be the Member-Secretary, to be notified by the State Government, in the Official Gazette.

Rhino Conservation Plan.

38ZK. (*1*) The State Governmetn shall, on the recommendation of the Rhino Conservation Authority, notify an area as a rhino reserve.

(*2*) The provisions of sub-section (*2*) of section 18, sub-sections (*2*), (*3*) and (*4*) of section 27, section 30, section 32 and clauses (*b*) and (*c*) of section 33 of this Act shall, as far as may be, apply in relation to a rhino reserve as they apply in relation to a sanctuary.

(*3*) The State Government shall prepare a Rhino Conservation Plan including staff development and deployment plan for the proper management of each area referred to in sub-section (*1*), so as to ensure—

(*a*) ecologically compatible land uses in the rhino reserves and areas linking one protected area or rhino reserve with another for addressing the livelihood concerns of local people;

(*b*) the forestry operations of regular forest divisions and those adjoining rhino reserves are not incompatible with the needs of rhino conservation.

(*4*) Subject to the provisions contained in this Act, the State Government shall while preparing a Rhino Conservation Plan, ensure the agricultural, livelihood, developmental and other interests of the people living in rhino bearing forests or a rhino reserve.

Explanation.—For the purposes of this Section, the expression "rhino reserve" includes—

(*i*) core rhino habitat areas of National Parks and Sanctuaries, where it has been established, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of rhino conservation, without affecting the rights of the Scheduled Tribes or such other forest dwellers, and notified as such by the State Government in consultation with an Expert Committee constituted for the purpose;

(*ii*) buffer or peripheral area consisting of the area peripheral to core area, identified and established in accordance with the provisions contained in Explanation (*i*) above, where a lesser degree of habitat protection is required to ensure the integrity of the rhino habitat with adequate dispersal for rhino species, and which aim at promoting co-existence between wildlife and human activity with due recognition of the livelihood, developmental, social and cultural rights of the local people.

Rhino Reserve Alterantion and De-notification.

38ZL. (*1*) No alteration in the boundaries of a rhino reserve shall be made except on a recommendation of the Rhino Conservation authority and the approval of the National Board for Wildlife.

(*2*) No State Government shall de-notify a rhino reserve, except in public interest with the approval of the Rhino Conservation Authority and the National Board for Wildlife.

Establishment of Rhino Conservation Foundation.

38ZM. (*1*) The State Government shall establish a Rhino Conservation Foundation for rhino reserves within the State in order to facilitate and support their management for conservation of rhino and biodiversity and, to take initiatives in eco-development by involvement of people in such development process.

(*2*) The Rhino Conservation Foundation shall, have the following objectives:—

(*a*) to facilitate ecological, economic, social and cultural development in the rhino reserves;

(*b*) to promote eco-tourism with the involvement of local stakeholder communities and provide support to safeguard the natural environment in the rhino reserves;

(*c*) to facilitate the creation of, and or maintenance of, such assets as may be necessary for fulfilling the above said objectives;

(*d*) to solicit technical, financial, social, legal and other support required for the activities of the Foundation for achieving the above said objectives;

(*e*) to augment and mobilise financial resources including recycling of entry and such other fees received in a rhino reserve, to foster stakeholder develpokent and eco-tourism;

(*f*) to support research, environmental education and training in the above related fields.".

Amendment of section 51.

3. In section 51 of the principal Act, after sub-section (*1D*), the following sub-sections shall be inserted, namely:—

"(1E) Any person, who commits an offence in relation to the core area of a rhino reserve or where the offence relate to hunting in the rhino reserve or altering the boundaries of the rhino reserve, such offence shall be punishable on first conviction with imprisonment for a term which shall not be less than seven years but may extend to ten years, and also with fine which shall not be less than seventy five thousand rupees but may extend to five lakh rupees; and in the event of a second or subsequent conviction with imprisonment for a term of not less than ten years and also with fine which shall not be less than ten lakh rupees but may extend to fifty lakh rupees.

(1F) Whoever, abets any offence punishable under sub-section (*1E*) shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided for that offence.".

Amendment of section 55.

4. In section 55 of the principal Act, after clause (*ac*), the following clauses shall be inserted, namely:—

"(ad) Member-Secretary, Rhino Conservation Authority; or

(ae) Director of the concerned rhino reserve; or".

Amendment of section 59.

5. In section 59 of the principal Act, after the word, figures and letter "Chapter IVC", the word, figures and letter "Chapter IVD" shall be inserted.

Amendment of section 60.

6. In section 60 of the principal Act, in sub-section (*3*), after the word, figures and letter "Chapter IVC", the word, figures and letter "Chapter IVD" shall be inserted;

Amendment of section 63.

7. In section 63 of the principal Act, in sub-section (*1*), after clause (*gvi*), the following clauses shall be inserted, namely:—

"(*gvii*) qualification and experience of experts or professionals under clause (*d*) of sub-section (*2*) of section 38ZB;

(*gviii*) the salaries and allowances and other conditions of appointment of the members under sub-section (*4*) of section 38ZC;

(*gix*) the form in which the annual statement of accounts of Rhino Conservation Authority shall be prepared under sub-section (*1*) of section 38ZG;

(*gx*) the form in which and the time at which the annual report of Rhino Conservation Authority shall be prepared under section 38ZH.".

STATEMENT OF OBJECTS AND REASONS

Rhinoceros are one among the critically endangered species in the world. At present there are only five species left in the world, two in Southern and Eastern Africa *i.e.* the African White Rhinoceros, the African Black Rhino and the Sumatran Rhino and the Javan Rhino and the Great Indian one-horned Rhinoceros and three in tropical Asia.

The Greater one-horned Rhinoceros or Indian Rhinos are restricted to the alluvial plains of the Indus, Ganges, Yamuna and Bramhaputra rivers. So, they remain confined to the Nothern half of the country and they are also found in plain, marshy, riverine terrains at a higher elevation such as Chitwan in Nepal. The largest resident population of greater one-horned rhinos happen to be at Kaziranga National Park, Assam.

The Greater one-horned Rhinoceros were initially found in almost all the South-Asian countries. But by mid 20th century, not more than two hundred rhinos in total are left in the world and now they happen to be only in India and Nepal. This was mostly because of hunting, habitat loss and poaching of rhinos. Greater one horned Rhinoceros features in the Red List of International Union for Conservation of Nature (IUCN) and also listed in the Appendix-I of CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora). This indicates the existing extent of threat for the species.

Poaching is the major reason for the decreasing rhino population in the world. Rhinos are generally poached for their horns; there is an overarching demand for rhino horns from some of the Asian countries like Vietnam and China. Vietnamese value it as an ingredient in traditional medicine to treat a variety of ailments from fever to hallucination and headaches, as well as, as a status symbol of wealth and power. With highest population of rhinos residing at Kaziranga, there is an increasing pressure on the National Park for rhino horns. In 2016, 19 rhinos were poached at Kaziranga National Park alone (as of 26.12.2016). Without proper protection and conservation, greater one-horned rhinos will soon face extinction.

The need is to constitute a conservation authority for rhinos comprising of the Union, States and other experts, to help to solve the problem of poaching of rhinos in the country which will result in a better and protected environment for rhinos and other wildlife habitats.

The Bill, therefore, seeks to amend the Wildlife (Protection) Act, 1972 with a view to provide for—

(*i*) constitution of the National Rhino Conservation Authority;

(*ii*) confer powers and functions of the Rhino Conservation Authority, so as to include—

(*a*) approval of Rhino Conservation Plan prepared by State Governments;

(*b*) lay down normative standards, guidelines for tiger conservation in the buffer and core areas of Rhino reserve, apart from ensuring their due compliance;

(*c*) providing information on protection measures including future conservation plan, rhino estimation, disease surveillance, mortality survey, patrolling, reports on untoward happenings and such other management aspects as it may deem fit, including future plan for conservation;

(*d*) approve and co-ordinate research on rhino, its habitat and related ecological and socio-economic parameters;

(*e*) ensure that identified rhino bearing forests are not diverted for ecologically unsustainable uses, except in public interest, and with the approval of the National Board for Wildlife on the advice of the Rhino Conservation Authority;

(*f*) facilitate and support rhino reserve management in the State through eco-development and people's participation as per approved management plans, and to support similar initiatives in adjoining areas consistent with the Central and State laws;

(*iii*) preparing the Annual Report of the Rhino Conservation Authority and sub-mission of the audited report to the Central Government for laying before Parliament;

(*iv*) constitution of Steering Committee by States;

(*v*) preparation of the Rhino Protection and Conservation Plans by State Governments including staff development and deployment, protection, habitat inputs, addressing the livelihood concerns of local people and compatibility of forestry operations in the adjoining Forest Divisions;

(*vi*) ensuring the agricultural, livelihood, developmental and other interests of people living inside forests or in rhino bearing forest areas; and

(*vii*) establishing a Rhino Conservation Foundation by States for supporting their development.

Hence this Bill.

NEW DELHI;
January 11, 2017.

GAURAV GOGOI

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to provide for the constitution of the National Rhino Conservation Authority. It also provides for appointment of the officers and other employees to the Authority. It also provides that Central Government shall provide grants and loans to the authority for being utilised for the purposes of the Bill. It further provides for constitution of the Rhino Conservation Authority Fund in which all grants, loans made by the Central Government, fees and charges, etc., received by the Authority shall be credited. It also provides for constitution of Steering Committee in rhino range States under the Chairmanship of Chief Minister of the State concerned. The expenditure relating to States shall be borne from the Consolidated Fund of the State concerned. The Bill, therefore, if enacted, will involve recurring expenditure of rupees sixty crore per annum which shall be charged from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees twenty crore is also likely to be involved.

———

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill provides for the constitution of the National Rhino Conservation Authority to which the Central Government may prescribe by rules—

(i) the salaries, allowances and other conditions of appointment of members of the Authority;

(ii) the terms and conditions of service of officers and other employees of the Authority;

(iii) the form in which the annual statement of accounts of the Authority is to be prepared; and

(iv) the form and time for submitting annual reports of the Authority to the Central Government.

As the rules will relate to matter of detail only, the delegation of legislative power is of a normal character.

BILL NO. 24 OF 2017

A Bill further to amend National Highways Act, 1956.

BE it enacted by Parliament in the Sixty-eighth year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the National Highway (Amendment) Act, 2017.

(*2*) It shall come into force on such date as the Central Government, may by notification in the Official Gazette, appoint.

48 of 1956.

Insertion of new section 3DA.

2. After section 3D of the National Highway Act, 1956, the following section shall be inserted, namely:—

De-notification of land declared for acquisition.

"3DA. Where the competent authority at any stage finds that any land or portion thereof acquired under section 3D for the purpose mentioned in sub-section (*1*) of section 3A is either under incorrect revenue record or not required due to change in geometry or alignment, it shall, as soon as may be, submit a report accordingly to the Central Government and the Central Government shall, on receipt of such report, by notification in the Official Gazette, de-notify such land or portion thereof.

Explanation.— For the purpose of this section, the expression 'competent authority' means the chairperson of the National Highway Authority of India.".

STATEMENT OF OBJECTS AND REASONS

At present, where after declaration of notification under section 3D of National Highways Act, 1956, if at any stage, the competent Authority realizes that the land acquired is no more useful for the highway, there is no legal provision to de-notify such land. Therefore, such land can not be handed over back to land losers. As per figures, more than 5000 hectare of idle land is lying with the National Highway Authority of India.

Once the declaration for acquisition of land is published under section 3D and subsequently if the competent authority realizes that this land is not required for highway, the same could not be de-notified due to absence of any legal provision with the competent Authority to de-notify such land which ultimately affects the innocent common land losers and farmers. It is the statutory duty of the competent Authority specified by the Central Government to find the way to save the innocent farmers by returning the acquired land if it is not required for development.

The Bill, therefore, seeks to amend the National Highways Act, 1956 with a view to provide for de-notification of the land declared to be acquired by the Central Government for the purpose of building, maintenance, management or operation of a national highway but is either under incorrect revenue record or not required due to change in geometry or alignment.

Hence this Bill.

NEW DELHI;
January 13, 2017.

KIRIT PREMJIBHAI SOLANKI

BILL NO. 27 OF 2017

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Representation of the People (Amendment) Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new section 8B.

43 of 1951.

2. In the Representation of the People Act, 1951, after section 8A, the following section shall be inserted, namely:—

Disqualification on ground of corrupt practice of using religion, caste, etc. to influence electors.

"8B. Notwithstanding anything in section 8A, any person convicted of an offence of corrupt practice of using religion, race, caste or community during election campaign in order to influence the vote of electors shall be disqualified for whole of life from the date of conviction."

STATEMENT OF OBJECTS AND REASONS

Religion and caste have become so interwined in Indian politics that it is almost impossible to imagine political parties functioning without using them. Many Governments have stormed to power on the back of promises on issues directly or indirectly related to religion and caste. The Hon'ble Supreme Court's recent ruling on use of religion and caste seems an admirable but difficult to implement measures to clean up electoral politics in the country. From amongst the number of political parties in the country, many are being accused of using religion for electoral gains. The Supreme Court ruled that no political party or contender can seek votes in the name of religion or caste during elections. What this seeks to do ideally is to bring the political parties on a level-playing field and contest election on issue of inclusive social and economic development. But that seems difficult given the leading personalities have dug their feet deep in divisive or focus-groups politics. Working for specific sections, however, without harming others can't be classified as a wrong doing. But the apex Court's reiteration of rules of the Election Commission is a sign that there is an attempt to clean electoral politics of religion and caste. The Election Commission can only comprehensively monitor rally videos, posters and sizeable campaign activities in major locations and routes. It is difficult to monitor campaigning at micro levels across the State. Therefore, the challenge is to stop indirect propagation because as already stated, the on-ground and door-to-door campaigning and also other forms of direct contact and engagement campaigning cannot be monitored.

The Bill, therefore, seeks to amend the Representation of the People Act, 1951 with a view to provide that any person convicted of an offence of corrupt practice relating to the use of religion, race, caste, community or language during election campaign for the purpose of influencing vote of electors shall be disqualified for the whole of life from the date of conviction.

Hence this Bill.

NEW DELHI;
January 18, 2017.

SAUGATA ROY

BILL NO. 30 OF 2017

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2017.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 348.

2. In article 348 of the Constitution, for clause (*1*), the following clause shall be substituted, namely:—

"(*1*) Notwithstanding anything in the foregoing provisions of this Part, unless Parliament by law otherwise provides—

(*a*) all proceedings in the Supreme Court shall be in the Hindi language;

(*b*) all proceedings in a High Court shall be in the Hindi language and also in that regional language which is used in the State where the principal seat of that High Court is situated;

(*c*) the authoritative texts—

(*i*) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament;

(*ii*) of all Acts passed by Parliament and of all Ordinances promulgated by the President; and

(*iii*) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament,

shall be both in the Hindi and the English languages; and

(*d*) the authoritative texts—

(*i*) of all Bills to be introduced or amendments thereto to be moved in the House or either House of the Legislature of a State;

(*ii*) of all Acts passed by the Legislature of a State and of all Ordinances promulgated by the Governor of a State; and

(*iii*) of all orders, rules, regulations and bye-laws issued under any law made by the Legislature of a State;

shall be both in the Hindi language and also in the regional language which is used in that State.".

STATEMENT OF OBJECTS AND REASONS

After Independence, while framing the Constitution, the founding fathers of the Constitution had envisaged the continuation of English language in the Courts of India till Hindi language spreads adequately across the country. As per article 348 of the Constitution, all works in courts should be transacted in English language. Now the time has come for the one hundred and twenty-five crore citizens of India to deliver justice to them in their own language. Justice should be delivered in Indian languages (languages specified in the Eighth Schedule to the Constitution) in High Courts as well. Even after sixty-nine years of Independence, the usage of English language in Courts still continues. As per Constitution, all laws and ordinances, etc. are requirement to be codified in the English language only. This phase of slavery to English language being witnessed in our courts and Parliament should discontinue. With the constitutional obligation neither the Judges can pronounce their judgements in the Hindi or in any other Indian language nor can the lawyers argue in courts in Indian languages. They have to perform all their work in English language. Even if a Judge wants to use any Indian language for pronouncing judgement, the Constitution does not permit it. There is a restriction on use of Indian languages in the High Courts of India also. It is a matter of concern for whole of the country. The country can prosper only when its languages are not demeaned. Everyone has a right to get justice in his language and it should be done at the earliest.

The Bill, therefore, seeks to amend the article 348 of the Constitution with a view to provide that—

(*i*) all proceedings in the Supreme Court shall be in Hindi;

(*ii*) all proceedings in a High Court shall be in the Hindi language and also in that regional language which is used in the State where the principal seat of that High Court is situated;

(*iii*) the authoritative texts of all Bills, introduced in and Acts passed by Houses of Parliament shall be in both Hindi and English languages; and

(*iv*) the authoritative text of all Bills introduced in and Act passed by the Legislature of a State shall be both in Hindi language and also in the regional language which is used in that State.

Hence, this Bill.

NEW DELHI; OM BIRLA

January 31, 2017.

BILL NO. 140 OF 2017

A Bill to provide for special financial assistance to the victims of terror attacks in the country and for matters connected therewith.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Special Financial Assistance to the Victims of Terror Attacks, 2016.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*i*) "dependent" includes spouse, children and aged parents, who are dependent on the deceased victim of terror attack;

(*ii*) "terror attack" means an attack by a terrorist group operating within or from outside the country; and

(*iii*) "victim of terror attack" means a person who dies or gets injured in a terror attack.

Special Financial Assistance to the victims of terror attack.

3. Notwithstanding anything contained in any other law for the time being in force, the Central Government shall grant special financial assistance to the victims of terror attack in the following manner:—

(i) in case of loss of life, an ex gratia grant to the dependent of victim which shall not be less than rupees five lakh;

(ii) in case of serious injury leading to incapacitation, an ex gratia payment to the victim which shall not be less than rupees three lakh;

(iii) in case of minor injury, an ex gratia grant to the victim which shall not be less than rupees one lakh;

(iv) in case of damage of dwelling unit of victim due to terror attack, cost of repair of dwelling unit; and

(v) preference in Central Government jobs to the victim or his dependent, as the case may be.

Overriding effect of the Act.

4. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act not in derogation of any other law for the time being in force.

5. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

6. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Our country has witnessed many terror attacks in the recent past. It has been observed that terrorist attack leads to huge loss of lives as well as properties. Life of victims who meet death in these terror attacks is priceless. It is the duty of the Government to ensure that families of the victims lead a dignified life after loss of lives of their beloved ones.

The Present Bill seeks to provide for special financial assistance to the families of deceased victim and to the victims who get injured. The Bill also seeks to provide for repair cost of premises damaged in terror attacks.

Hence this Bill.

NEW DELHI;
April 11, 2016.

MAHEISH GIRRI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for special financial assistance to the victims of terrorist attacks and their dependant family member. It also provides for payment of repairing cost of dwelling units damaged in terror attack.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one thousand crore will be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 254 OF 2016

A Bill further to amend the Drugs and Cosmetics Act, 1940.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Drugs and Cosmetics (Amendment) Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

23 of 1940.

2. In section 2 of the Drugs and Cosmetics Act, 1940 (hereinafter referred to as the principal Act),—

(*i*) the existing clause (*aaa*) shall be renumbered as clause (*aab*) and before clause (*aab*) as so renumbered, the following clause shall be inserted, namely:—

"(*aaa*) "Central Authority" means the Central Authority for Regulation, Control, Registration and Licensing of e-pharmacies constituted under section 33-OB;";

(*ii*) after clause (*b*), the following clause shall be inserted, namely:—

"(*ba*) "e-pharmacy" refers to an online pharmacy of a company or a hospital or a dispensary which through internet dispense with or sell drugs or compound medications in accordance with the Drugs and Cosmetics Act, 1940;";

23 of 1940.

Insertion of new chapter IV B.

(*iii*) after clause (*h*), the following clause shall be inserted, namely:—

"(*ha*) "prescription" includes the name of the doctor and hospital or clinic, details of the disease, drugs prescribed and any other relevant information;"; and

(*iv*) after clause (*i*), the following clause shall be inserted, namely:—

"(*j*) "State Authority" means the State Authority for Regulation, Control, Registration and Lincensing of e-pharmacies constituted under section 33-OD.".

3. After section 33-O of the principal Act, the following Chapter and section thereunder shall be inserted, namely:—

"CHAPTER IVB

REGULATION, CONTROL, REGISTRATION AND LICENSING OF E-PHARMACIES

Compulsory registration of e-pharmacies.

33-OA. With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, no person or establishment shall operate or own an e-pharmacy without prior registration with the Central Authority or the State Authority, as the case may be:

Provided that every person or establishment, operating or owning an e-pharmacy prior to the coming into force of this Act, shall apply to the Central Authority or the State Authority, as the case may be, for registration within a period of ninety days from the date of commencement of this Act in such form and manner as may be prescribed.

Constitution of Central Authority for Regulation, Control, Registration and Licensing of e-pharmacies.

33-OB. *(1)* The Central Government shall, by notification in the Official Gazette, constitute an Authority to be known as the Central Authority for Regulation, Control, Registration and Licensing of e-pharmacies in such manner as may be prescribed.

(2) The Central Government shall appoint such number of officers and staff, as it considers necessary, for the efficient functioning of the Central Authority.

Functions of Central Authority.

33-OC. The Central Authority shall—

(*a*) frame guidelines in consultation with the Central Drugs Standard Control Organisation for the purpose of registration and licensing of e-pharmacies;

(*b*) recommend to the Central Government the rules and the regulations to be framed for regulation, control, registration and licensing of e-pharmacies in the country; and

(*c*) undertake such other functions as may be assigned to it by the Central Government for carrying out the purposes of this Act.

Constitution of State Authority for Regulation, Control, Registration and Licensing of e-pharmacies.

33-OD. *(1)* Every State Government shall, by notification in the Official Gazette, constitute an Authority to be known as the State Authority for Regulation, Control, Registration and Licensing of the e-pharmacies within its jurisdiction in such manner as may be prescribed.

(2) The State Government shall appoint such number of officers and staff, as it considers necessary, for the efficient functioning of the State Authority.

Functions of State Authority.

33-OE. The State Authority shall—

(*a*) ensure the implementation of the guidelines framed by the Central Authority under section 33-OC;

(b) appoint such number of Drug Controllers being not less than one to ensure that the documents and provisions required for e-pharmacies are being complied with by the e-pharmacies;

(c) maintain an offline and online database of all licensed e-pharmacies within its jurisdiction;

(*d*) work in coordination with the Central Authority constituted under section 33-OB for effective implementation of the provisions of this Act;

(*e*) make regular inspections of the website of the e-pharmacies; and

(*f*) undertake such other functions as may be assigned to it by the State Government for carrying out the purposes of this Act.

Documents required for registration of e-pharmacies.

33-OF. For the purposes of registration under this Act, every e-pharmacy shall submit the following documents to the Central Authority or the State Authority, as the case may be,—

(*a*) application form;

(*b*) *challan* or receipt of the fee deposited;

(*c*) declaration form;

(*d*) key plan or the Blue print;

(*e*) site plan or the Blue print;

(*f*) certified copy of the constitution of the firm;

(*g*) affidavit of non-conviction of Proprietor or Partners or Directors under Drugs and Cosmetics Act, 1940;

23 of 1940.

(*h*) certified copy of Registration Certificate of Pharmacy Council of India or Experience Certificate of the registered pharmacist or competent person and qualification certificates;

(*i*) bio-data form;

(*j*) affidavit of registered pharmacist or competent person regarding full time working with the firm duly attested by a Notary; and

(*k*) the name and details thereof of the online portal of the e-pharmacy.

Grant of license to e-pharmacy.

33-OG. The Central Authority or the State Authority shall, in accordance with the report submitted by the Central Drugs Standard Control Organisation or Drug Controller, as the case may be, and after detailed inspection of the documents grant the license to the e-pharmacy.

Conditions for sale and supply of drugs by e-pharmacy.

33-OH. (*1*) No e-pharmacy shall sell or supply drugs except in accordance with the prescription of a registered medical practitioner.

(*2*) For the purposes of sub-section (*1*), the scanned copy of the prescription duly signed and stamped by the registered medical practitioner shall be uploaded on the website of the e-pharmacy which shall be verified by the pharmacist of the e-pharmacy in such manner as may be prescribed:

Provided that only one prescription shall be valid for one online order of drugs.".

STATEMENT OF OBJECTS AND REASONS

Mushrooming of e-commerce websites for every commodity and services of daily use has become quite evident today. Now-a-days, various e-commerce websites are also selling medicines online. However, there is no law to govern the functioning of these online pharmacies. Due to various exploitative practices that can take place for the purpose of drug-abuse, regulatory framework needs to be set up to ensure that the practices carried on by these sites are not contrary to the parent act *i.e.* the Drugs and Cosmetics Act, 1940.

The Bill, therefore, seeks to amend the Drugs and Cosmetics Act, 1940 with a view to provide for—

(*a*) compulsory registration of the e-pharmacies in the country;

(*b*) constitution of the Central Authority and the State Authority for regulation, control, registration and licensing of e-pharmacies;

(*c*) documents required for registration of e-pharmacies in the country;

(*d*) grant of license to e-pharmacies in the country; and

(*e*) conditions for sale and supply of drugs by e-pharmacies.

Hence this Bill.

NEW DELHI;
July 6, 2016.

MAHEISH GIRRI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of Central Authority for Regulation, Control, Registration and Licensing of e-pharmacies. It also provides for the constitution of State Authority for Regulation, Control, Registration and Licensing of e-pharmacies. It further provides for appointment of Drug Controllers being not less than one and maintenance of an offline and online database of all licensed e-pharmacies by the State Government within its jurisdiction. The expenditure relating to States shall be borne from the Consolidated Funds of the respective States. However, the expenditure relating to Union territories shall be borne by the Central Government. The Bill, therefore, if enacted, would involve expenditure from Consolidated Fund of India. It is estimated that a recurring expenditure of rupees twenty five crore will be involved per annum.

A non-recurring expenditure of twenty five crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill provides that every person or establishment, operating or owning an e-pharmacy prior to the coming into force of this Act, shall apply for registration within a period of ninety days from the date of commencement of this Act to the Central Authority or the State Authority, as the case may be, in such form and manner as may be prescribed. It also provides that the Central Government shall, by notification in the Official Gazette, constitute a Central Authority for Regulation, Control, Registration and Licensing of e-pharmacies in such manner as may be prescribed. It further provides that every State Government shall, by notification in the Official Gazette, constitute an Authority to be known as the State Authority for Regulation, Control, Registration and Licensing of the e-pharmacies within its jurisdiction in such manner as may be prescribed. It furthermore provides that the scanned copy of the prescription duly signed and stamped by the registered medical practitioner shall be uploaded on the website of the e-pharmacy which shall be verified by the pharmacist of the e-pharmacy in such manner as may be prescribed by rules made by the Central Government or the State Government, as the case may be. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 239 OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by the Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 2016.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 15.

2. In article 15 of the Constitution, in clause (*5*), the words, ",other than the minority educational institutions referred to in clause (*1*) of article 30" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Article 15(5) was inserted in the Constitution through the Ninety-Third Constitutional Amendment in 2006 with an object 'to promote the educational advancement of the socially and educationally backward classes of citizens or of the Scheduled Castes and the Scheduled Tribes in matters of admission of students belonging to these categories in aided or unaided educational institutions'. Our society has indeed benefitted by this and the Government has provided reservation for children belonging to weaker sections and disadvantaged groups popularly known as the economically weaker sections in all private unaided primary schools.

But, in the Ninety-Third Constitutional Amendment, minority institutions as defined under article 30(1) were kept out of the purview of article 15(5). This is clearly against the idea of equality as weaker sections of society for whom the provision has been enacted, would not be able to reap the benefits of the provision of reservation. The benefits of reservation should also be extended in admission to minority run educational institutions to achieve the purpose of the Ninety-Third Constitutional Amendment. Moreover, in any society, a positive step which promotes the idea of equality, any waiver must not be given to some particular group of the society.

Hence this Bill.

NEW DELHI;
July 6, 2016.

MAHEISH GIRRI

BILL NO. 252 OF 2017

A Bill to prohibit littering, spitting and urinating in public places so as to ensure maintenance of clean, hygienic and healthy atmosphere in and around public places and for matters connected therewith.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Maintenance of Cleanliness Act, 2016.

(*2*) It extends to the Union territories only.

(*3*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires:

(*a*) "local authority" includes a municipal committee, corporation or council, by whatever name called, district board, cantonment board or any authority for the time being entrusted by law with the control and administration of any matter within a specified local area;

(*b*) "litter" means anything which is likely to dirt or cause or contribute to the defilement of the place where it is thrown or left to stink;

(*c*) "public place" means any place to which the general public has, or is entitled or permitted to have, access, with or without payment, and includes roads and highways, streets, lanes, railway stations, hospitals, bank premises, theatres, court premises, race course, circus, music halls, gymnasiums, swimming pools, dancing halls, markets, shopping places, malls, parks, educational institutions and religious places; and

(*d*) "spitting" includes expectorating.

Prohibition of spitting, littering, etc. in public place.

3. Notwithstanding anything contained in any other law for the time being in force, the spitting, littering, urinating, defecating, defiling or defacement in any manner whatsoever, in any public place is hereby prohibited.

Penalty.

4. Whoever violates the provisions of section 3 shall be punished with fine, which shall not be less than one thousand rupees but which may extend upto ten thousand rupees:

Provided that while imposing a fine under this section, the risk of diseases or injury resulting to persons or animals or damage to property shall be taken into consideration by the local authority.

Local Authority to collect fine and implement the provisions of this Act.

5. The local authority shall be responsible for the collection of fines under section 4 and implementation of the provisions of this Act.

Power to make rules.

6. (*1*) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(*2*) Every rule under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, Parliament agrees in making any modification in the rule or Parliament agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modifications or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Taking cue from the vision set by the Honorable Prime Minister, in the form of "Swachh Bharat Abhiyaan", the present Bill seeks to prohibit certain activities like, spitting, urinating, discarding garbage at public places. The model law that has been implemented by countries like Singapore and United States makes such activities a punishable offence and the result is quite evident and visible. There is need to imbibe the good practices in the general masses and make them aware of the consequences of littering, which usually leads to various diseases.

"Cleanliness is next to godliness"—a phrase that should be the cornerstone of the 21st Century India, in order to make it one of the most beautiful nations and help in making the practices of the public, known worldwide.

Hence this Bill.

NEW DELHI;
July 6, 2016.

MAHEISH GIRRI

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of a normal character.

BILL NO. 158 OF 2017

A Bill to provide for compxulsory teaching of Bhagavad Gita as a moral education text book in educational institutions and for matters connected therewith.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Compulsory Teaching of Bhagavad Gita as a Moral Education Text Book in Educational Institutions Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government; and

(*b*) "educational institution" means any school, by whatever name called, imparting education up to senior secondary level.

Compulsory Teaching of Bhagavad Gita as a moral education text book.

3. Every educational institution shall compulsorily teach Bhagavad Gita as a moral education text book.

Appropriate Government to appoint teachers for teaching Bhagavad Gita as a moral education text book.

4. The appropriate Government shall appoint such number of teachers, as it may deem necessary with such qualifications, as may be specified by the Central Government, for teaching Bhagavad Gita as a moral education text book in every educational institution.

Derecognition of schools for non-compliance of the provisions of the Act.

5. The appropriated Government shall derecognise a school, which does not comply with the provisions of section 3:

Provided that a school shall be given reasonable opportunity of being heard before any decision on its derecognition is taken.

Central Government to provide fund to the State Governments.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the States for carrying out the purposes of this Act.

Application of Act on minority educational institutions in certain situation.

7. Notwithstanding anything contained in this Act, the provisions of this Act, shall apply to minority institutions only if the management of such institutions convey to the appropriate Government their willingness to include the teaching of Bhagavad Gita as a moral education text book in their school curriculum.

Overriding effect of the Act.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS

Srimad Bhagavad Gita has been the book of India's soul. It is also the greatest book on the moral and value education. Bhagavad Gita not only holds holy significance to the people of India but also guides the moral and value thinking in the time of depravity and chaos.

The teachings of Gita is ageless and unbounded. It contains the teaching ranging from spiritual awakening to leadership and management. Teachings of Gita is teaching of humanity and brotherhood. Many great thinkers from our time such as Swami Vivekananda, Sri Aurobindo, Albert Einstein, Mahatma Gandhi as well as Madhavacharya, Shankara and Ramanuja, from bygone ages, have all deliberated upon its timeless teachings.

Mahatma Gandhi has also said "When doubts haunt me, when disappointments stare me in the face, and I see not one ray of hope on the horizon, I turn to Bhagavad Gita. Let the Gita be to you a mine of diamonds, as it has been to me; let it be your constant guide and friend on life's way".

It is highly deplorable that such vast literature containing infinite teachings for all age groups is neglected by our educational institutions. It is high time to make sincere effort to spread the teachings to our children and grown ups. Teaching of Bhagavad Gita as a compulsory moral education text book in educational institutions will enable the younger generation to enrich their personality, noble traditions and thoughts of Bhagavad Gita will make them better citizens.

Hence this Bill.

NEW DELHI;
April 11, 2016.

RAMESH BIDHURI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall appoint teachers for teaching of Bhagavad Gita as a compulsory moral text book in every educational institution. Clause 6 provides that the Central Government shall provide adequate funds to the State Governments carrying out the purposes of this Act. The Bill, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees five thousand crore will be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

BILL NO. 135 OF 2016

A Bill to provide for financial assistance to unemployed post-graduates and for matters connected herewith.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Financial Assistance to Unemployed Post-Graduates Act, 2016.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "post-graduate" means any citizen who holds a master's degree or equivalent qualification from any recognised university or institution and includes citizens who hold qualifications higher than that of post-graduate degree or its equivalent; and

(*b*) "prescribed" means prescribed by rules made under this Act.

Central Government to endeavour to provide employment to post-graduates.

3. The Central Government shall endeavour to provide to every post-graduate an employment according to his qualification.

Grant of financial assistance to unemployed post-graduate.

4. *(1)* Every unemployed post-graduate, till he is gainfully employed, shall, be entitled to financial assistance at such rate, as the Central Government may deem appropriate.

(2) Notwithstanding anything contained in sub-section (*1*), no financial assistance shall be provided to an unemployed post-graduate if—

(a) he is receiving any fellowship or scholarship under any scheme of the Central Government or a State Government; or

(b) he is registered under any higher research course.

(3) The Central Government shall, while fixing the rate of financial assistance, take into account the age, educational qualification, technical skills, physical disabilities and such other factors, as it may deem necessary:

Provided that different rates of financial assistance may be prescribed for post-graduates on the basis of subjects in which they hold post-graduate degrees and the State or part of the State of their residence.

Central Government to provide special skill and apprenticeship training.

5. The Central Government shall ensure provision of special employment oriented skill and apprenticeship trainings, based on industrial requirements, to the post-graduates in such manner as may be prescribed.

Power to make rules.

6. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The problem of employment has been growing amongst the post-graduate citizens in our country. They are living in stressful condition with pressure of their parents, society and uncertain future after having completed higher education in our country. Their capacity and energy are not being utilized for nation building. Due to desperation to get employed, they are choosing the path of crime and violence. Some even commit suicide. Lack of opportunities for employment is also a leading factor in migration of a large section of capable youth abroad. The problem of not getting any financial assistance after the completion of post-graduation is also leading the youth towards lack of interest in Research and Development sector in various streams of higher education thereby hampering national research output and innovation capacity. It is high time that necessary efforts be made by the Government to assure employment for citizens of the country and to provide financial assistance to those who are having post-graduate degrees but have not been able to secure employment. It is also high time that the efforts be made by the Government to provide necessary skill training to the post-graduate according to the industrial and institutional requirements.

Hence this Bill.

NEW DELHI;
April 11, 2016

RAMESH BIDHURI

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for financial assistance to unemployed post-graduates. Clause 5 provides for special skill and apprenticeship training for the post-graduates. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees fifty crore per annum would be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 134 2016

A Bill to provide for equal compensation to victims of riots and communal violence by the Central Government and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Victims of Riots and Communal Violence (Equal Compensation) Act, 2016.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*b*) "communal violences" means an unexpected and undesirable incident creating internal disturbance within any part of the State which threatens the secular fabric, unity, integrity or internal security of the country;

(*c*) "compensation" means financial assistance provided by the Central Government to the victim or his dependent;

(*d*) "dependent" means the parents, spouse, children or siblings of a victim;

(*e*) "Fund" means the Victims of Riots and Communal Violence Compensation Fund constituted under section 4;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "qualified medical practitioner" means any person declared by the appropriate Government, by notification in the Official Gazette, to be qualified medical practitioner for the purpose of this Act.

(*h*) "riot" means an unexpected and undesirable incident resulting in injury or death of a person belonging to a specific religious group during the extremists activities; and

(*i*) "victim" means a person killed or injured during riots or communal violence.

Equal compensation to victims of riots and communal violence.

3. (*1*) Notwithstanding anything contained in any other law for the time being in force, the Central Government shall, after taking into consideration the loss or injury sustained, pay equal amount of compensation to the victims or their dependant in such manner as may be prescribed.

(*2*) Without generality of the foregoing provision, the payment of compensation shall be as follows:—

(*a*) in case of death due to riots or communal violence, an *ex-gratia* payment to the dependents of victims, which shall not be less than rupees twenty lakh;

(*b*) in case of permanent disability resulting from riots or communal violence, an *ex-gratia* payment to every victim, which shall not be less than rupees ten lakh;

(*c*) in case of temporary disability resulting from riots or communal violence, an *ex-gratia* payment to every victim, which shall not be less than rupees five lakh; and

(*d*) in case of ordinary injury resulting from riot or communal violence, *ex-gratia* payment to every victim, which shall not be less than rupees one lakh.

(*3*) The nature and quantum of injury suffered by a victim shall be examined and reported by a qualified medical practitioner in such manner as may be prescribed.

(*4*) The payment of compensation under sub-section (*2*) shall be disbursed in such manner, as may be prescribed, to every victim or his dependent, as the case may be, within two weeks from the date of receipt of report of the qualified medical practitioner.

Constitution of Victims of Riots and Communal Violence Compensation Fund.

4. *(1)* The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the Victims of Riots and Communal Violence Compensation Fund for carrying out the purpose of this Act.

(2) The Central Government and the State Governments shall contribute to the Fund in such ratio as may be prescribed.

(3) Such other sums as may be received by way of donations or contributions from domestic and international institutions shall also be credited to the Fund.

(4) The Fund shall be administered by a Board to be known as the Victims of Riots and Communal Violence Compensation Board, consisting of—

(i) the Prime Minister-Chairperson ex-officio;

(ii) the Chief Minister of every State and Lieutenant Governor or Chief Administrator of Union territories; and

(iii) ten retired judges of High Courts to be appointed by the Central Government in such manner as may be prescribed.

Constitution of task force by the appropriate Government.

5. *(1)* The appropriate Government shall constitute a task force to implement the provisions of this Act within their jurisdiction.

(2) The task force shall consist of ten members to be appointed by the appropriate Government in such manner as may be prescribed.

(3) The salary and allowances payable to and other terms and conditions of service of members of the task force shall be such as may be prescribed.

(4) The task force shall—

(*i*) visit the riots and communal violence site and collect information relating to the victims;

(*ii*) submit the incident related information to the Victims of Riots and Communal Violence Compensation Board;

(*iii*) ensure that the victims receive the compensation within time limit prescribed under this Act; and

(*iv*) undertake any other work that may be assigned to it by the Victims of Riots and Communal Violence Compensation Board.

Central Government to provide adequate Funds.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the State Governments for carrying out the purpose of this Act.

Act not in derogation of other laws.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

8. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Constitution provides right to equality to every citizen as a Fundamental Right. Under articles 14 to 16, there is provision for equality and non-discrimination and for social equality under articles 17 and 18 of the Constitution. The Right to Equality provides that all the citizens of India should get equal protection under the law and should be treated equally in similar situations. In case of riots and communal violence, financial assistance is provided as compensation to affected persons. In most of the situations, these victims have to knock the doors of court for equal compensation which is unfortunate. There is no clear policy aimed at providing equal compensation to all victims affected by riots or communal violence. Everything depends upon administrative decisions, which took long time and usually results into no compensation to the victims or his/her dependents. Now, the time has come to formulate a law providing payments of fixed amount as compensation to the next kin of deceased and to the injured in riots and communal clashes.

Hence this Bill.

NEW DELHI;
April 11, 2016

RAMESH BIDHURI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for payment of compensation to victims of riots and communal violence. Clause 4 provides for constitution of Victims of Riots and Communal Violence Compensation Fund. Clause 5 provides that the appropriate Government shall constitute task force for carrying out the purposes of this Act. Clause 6 provides that the Central Government shall provide adequate funds to the state Governments for carry out the provisions of this Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees one thousand crore per annum will be involved out of Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 111 OF 2016

A Bill to provide for special financial assistance to National Capital Territory of Delhi for the purpose of development works related to roads, housing, health care centres, schools, skill development and training centres, development and welfare schemes for women, children and poor people living in the backward regions and urban poor villages of the National Capital Territory of Delhi and for the matters connected therewith.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Special Financial Assistance to the National Capital Territory of Delhi Act, 2016.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Special financial assistance to the National Capital Territory of Delhi.

2. There shall be paid such sums of money out of the Consolidated Fund of India, every year, as Parliament may by due appropriation provide, as special financial assistance to the National Capital Territory of Delhi to meet the costs of such development works and welfare schemes, as may be undertaken by the Government of National Capital Territory of Delhi with approval of the Central Government for the purposes of—

(i) developing good quality infrastructure, roads, street lights, school, college, health centres and transport facilities;

(ii) providing clean drinking water and sanitation in backward urban villages;

(iii) constructing community centres in urban villages;

(iv) improving the health standards of children and women living in backward urban villages;

(v) improving educational standards of the children living in urban villages;

(vi) skill development of unemployed youth members of families living below poverty line;

(vii) providing employment to the members of families living below poverty line;

(viii) undertaking measures for lowering of infant mortality rate, improving maternal health and promoting safe and institutional delivery;

(ix) creating awareness about the disaster preparedness plan and training people to deal with disaster;

(x) providing social security benefits to the old aged persons living in backward regions;

(xi) implementing welfare schemes for workers, labourers and migrants;

(xii) implementing Swachch Bharat Abhiyan in backward urban villages;

(xiii) implementing rural tourism in urban villages of historical importance; and

(xiv) promoting the entrepreneurial works in urban villages.

Act not to be in derogation of other laws.

3. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS

The backward urban villages of Delhi is needed to be developed. The backward regions of Delhi need financial assistance from the Central Government for the successful completion of various development works and welfare schemes of Central Government as well as the Delhi Government. Urban villages within Delhi are not much developed due to inappropriate financial assistance provided to these villages. The basic development indicators of these villages are very low and alarming. The villages are noq at the edge of loosening the track of development. The unplanned expansion of Delhi is creating some critical juncture in path of development of these backward urban villages. Many villages in Delhi located near the Haryana-Delhi border and Uttar Pradesh-Delhi border are witnessing lack of basic development infrastructure, education and health facilities. Special focus is also required for improving the educational facilities for children, welfare of labourers and daily wage workers, well being of girl child, social securities to old age persons in the backward urban villages of the National Capital Territory of Delhi. It is, therefore, necessary that the Union Government should provide special financial assistance to these regions of the National Capital Territory of Delhi.

Hence this Bill.

NEW DELHI;
April 11, 2016.

RAMESH BIDHURI

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that there shall be paid such sums of money out of the Consolidated Fund of India, every year, as Parliament may be due appropriation provide, as special financial assistance to the National Capital Territory of Delhi to meet the costs of such development works and welfare schemes, as may be undertaken by the Government of National Capital Territory of Delhi with approval of the Central Government.

The Bill, therefore, if enacted, will involve expenditure out of the Consolidated Fund of India. It is not possible, at present, to give estimates of recurring expenditure, which would be involved out of the Consolidated Fund of India.

No non-recurring expenditure is likely to be incurred from the Consolidated Fund of India.

———

ANOOP MISHRA
Secretary General

UPLOADED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI–110 002
AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI–110 054.

GMGIPMRND—4998GIGI(S3)—19-04-2017.