



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-अ.-26082022-238406

CG-DL-E-26082022-238406

xxxGIDExxx

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 18]

नई दिल्ली, शुक्रवार, अगस्त 5, 2022/ श्रावण 14, 1944 (शक)

No. 18]

NEW DELHI, FRIDAY, AUGUST 5, 2022/SRAVANA 14, 1944 (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.

RAJYA SABHA

The following Bills have been introduced in the Rajya Sabha on the 5th August 2022:—

I

BILL NO. I OF 2021

A Bill to provide for the effective prevention, preparedness and management of epidemics and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Epidemic Diseases (Prevention, Preparedness and Management) Act, 2021.

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; and different dates may be appointed for different provisions of this Act and for different States, and any reference in any provision to the commencement of this Act in relation to any State shall be construed as a reference to the coming into force of that provision in that State.

Definitions.

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

(a) "appropriate authority" means the Ministry or Department of the Government of India having administrative control of public health management, or the Ministry or Department of the State Government having administrative control of public health management in the State;

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

(c) "district" means an administrative area as recognized by the Revenue Department of a State or Union Territory Government for the purposes of revenue administration and law and order purposes which is headed by a District Collector or a Deputy Commissioner;

(d) "district authority" includes the Deputy Commissioner or the District Collector or the District Magistrate or any other Revenue Officer or Executive Magistrate so empowered under the prevailing Revenue Law or the Code of Criminal Procedure, 1973 or as the case may be; 2 of 1974

(e) "epidemic" means the occurrence, in a community or region, of cases of an illness, specific health related behaviour, or other health related events in excess of normal expectancy;

(f) "infectious waste" means waste suspected to contain pathogens, such as laboratory cultures; waste from isolation wards; tissues (swabs), materials, or equipments that have been in contact with infected patients; excreta, etc;

(g) "isolation" means separation of ill or contaminated persons or affected baggage, containers, conveyances, goods or postal parcels from others in such a manner as to prevent the spread of infection or contamination;

(h) "National Epidemic Plan" means the National Epidemic Plan prepared under sub-section (1) of section 9;

(i) "outbreak" means epidemic limited to a localized increase in the incidence of a disease;

(j) "point of entry" means a passage for international entry or exit of travellers, baggage, cargo, containers, conveyances, goods and postal parcels as well as agencies and areas providing services to them on entry or exit;

(k) "quarantine" means the restriction of activities or separation of suspect persons from others who are not ill or of suspect baggage, containers, conveyances or goods in such a manner as to prevent the possible spread of infection or contamination;

(l) "State Epidemic Plan" means the State Epidemic Plan prepared under sub-section (1) of section 10;

(m) "State Government" means the Ministry or Department of the State Government having administrative control of public health management in the State;

(n) "National Commission" means the National Epidemic Commission constituted under sub-section (1) of section 3;

(o) "State Commission" means the State Epidemic Commission constituted under sub-section (1) of section 6.

CHAPTER II

NATIONAL AND STATE EPIDEMIC COMMISSIONS

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette appoint in this behalf, there shall be established for the purposes of this Act, an authority to be known as the National Epidemic Commission.

Establishment
of National
Epidemic
Commission.

(2) The National Commission shall consist of a Chairperson and other members representing each State, as follows:—

(a) the Union Health Minister who shall be the *ex-officio* Chairperson;

(b) an elected member from each State Commission.

(3) The Chairperson of the National Commission may designate one of the members to be the Vice-Chairperson of the National Commission.

(4) The term of office for each member shall be five years or till the attainment of sixty-five years of age, whichever is earlier.

(5) A member may choose to resign at any time by submitting the resignation letter to the Chairperson.

(6) the conditions of service and remuneration of members of the National Commission shall be such as may be prescribed by the Central Government.

(7) The vacancies among members of the National Commission and manner of filling such vacancies shall be such as may be prescribed.

4. (1) The National Commission shall perform and discharge the following functions and duties, namely:—

Functions and
duties of
National
Epidemic
Commission.

(a) prepare a National Epidemic Plan for containing epidemics and execute it in case an epidemic is declared;

(b) advise the Central Government on preventive measures for an epidemic;

(c) monitor the implementation of the provisions of this Act;

(d) advise the Central Government on all matters concerning the implementation of this Act;

(e) review and monitor the outbreak or potential outbreak of epidemics in the country;

(f) commission research studies and surveys to suggest effective strategies to contain epidemics;

(g) prepare annual reports to be laid before both Houses of the Parliament on the status of the implementation of the Act in such manner as may be prescribed;

(h) advise the Prime Minister on the need to declare any health condition or disease as an epidemic;

(i) recommend necessary measures to the Prime Minister to deal with any epidemic including lockdown, barriers to point of entry, etc;

(j) such other duty or function as may be assigned to it by the Central Government.

(2) The National Epidemic Commission shall have the power to regulate its own procedures.

Meetings of
National
Epidemic
Commission.

5. (1) The National Commission shall meet as and when necessary but atleast twice in a year and at such time and place as the Chairperson may think fit.

(2) The Chairperson of the National Commission shall preside over its meetings and in his absence, the Vice-Chairperson shall preside over the meetings.

Establishment
of State
Epidemic
Commission.

6. (1) With effect from such date as the State Governments may, by notification in the Official Gazette, appoint in this regard, there shall be established for the purposes of this Act, an authority to be known as the State Epidemic Commission.

(2) A State Commission shall consist of the Chairperson and other members, as follows:—

(a) the Minister of Health of the State, who shall be the *ex-officio* Chairperson;

(b) the Secretary in charge of the Ministry of Health of the State;

(c) two epidemiologists that the State Government shall appoint, with not less than fifteen years of experience in the field;

(d) four members representing village institutions, worker organizations and disadvantaged groups;

(e) at least one representative each from the National Human Rights Commission, the National Commission for Women, National Commission for Scheduled Castes, National Commission for Scheduled Tribes and the National Commission for Protection of Child Rights;

(f) three eminent social workers from civil society with no less than fifteen years' of experience, working in fields including but not limited to disability policy, mental health policy, labour welfare.

(3) The Chairperson of the State Commission may designate one of the members to be the Vice-Chairperson.

(4) The term of office, the conditions of service and remuneration of members of the State Commission shall be such as may be prescribed by the State Government.

(5) The vacancies among members of the State Commission and manner of filling such vacancies shall be such as may be prescribed.

Functions and
Duties of State
Epidemic
Commission.

7. (1) The State Commission shall perform and discharge the following functions and duties, namely:—

(a) prepare a State Epidemic plan for containing epidemics and execute it in case of declaration of an epidemic;

(b) provide advice to the Central and/or the State Government regarding preventive measures in case of an epidemic;

(c) monitor the implementation of this Act in the respective State;

(d) advise the State Government on all matters concerning the implementation of this Bill;

(e) review and monitor the outbreak or potential outbreak of epidemics in the State;

(f) commission research studies and surveys to suggest effective strategies to contain epidemics;

(g) prepare annual reports to be laid before the State Legislature on the status of the implementation of the Act in such manner as may be prescribed;

(h) advise the Chief Minister of the State on the need to declare any health condition or disease as an epidemic;

(i) recommend necessary measures to the Chief Minister to deal with any epidemic including lockdown, barriers to point of entry, etc;

(j) such other duty or function as may be assigned to it by the State Government.

(2) The State Epidemic Commission shall have the power to regulate its own procedures.

8. (1) The State Commission shall meet as and when necessary but atleast twice in a year and at such time and place as the Chairperson may think fit.

Meeting of
State
Epidemic
Commission.

(2) The Chairperson of the State Commission shall preside over its meetings and in his absence, the Vice-Chairperson shall preside over the meetings.

CHAPTER III

NATIONAL AND STATE EPIDEMIC PLAN

9. (1) A National Epidemic Plan shall be prepared by the National Commission in consultation with the State Commissions and expert bodies or organisations in the field of epidemiology or public health policy within six months of the constitution of the National Commission and shall be reviewed, for modification or improvement every year.

National
Epidemic
Plan.

(2) The National Plan shall include but not limited to the following:—

(a) detailed provisions for measures concerning, safe disposal of infectious waste, safe disposal of human remains, control of health care supplies, compensation, destruction of property, protection of persons, medical examination and testing, vaccination and treatment, procedure for isolation and quarantine, and disclosure of protected health information, licensing and appointment of health personnel, dissemination of information, access to mental health support;

(b) provisions for strict compliance with the standards set under this Act;

(c) provisions to protect the vulnerable population during an epidemic, including but not limited to women, children, persons with disability, persons of scheduled castes and tribes, other backward castes, and the persons falling below poverty line;

(d) provisions for protecting the providers of essential services including healthcare personnel, police force, sanitation workers;

(e) provisions to ensure equitable access to resources including healthcare, education, food, water, safe living spaces.

10. (1) A State Epidemic Plan shall be prepared by each State Commission in consultation with the local self Governments and expert bodies or organisations in the field of epidemiology or public health policy within six months of the constitution of the State Commission and shall be reviewed for modification or improvement every year.

State
Epidemic
Plan.

(2) The State Epidemic Plan shall include but not limited to the following:—

(a) detailed provisions for measures concerning, safe disposal of infectious waste, safe disposal of human remains control of health care supplies, compensation, destruction of property, protection of persons, medical examination and testing, vaccination and treatment, procedure for isolation and quarantine, access to and disclosure of protected health information, licensing and appointment of health personnel, dissemination of information, access to mental health support and such other provisions as deemed fit;

(b) provisions for strict compliance with the standards set under this Act;

(c) provisions to protect the vulnerable population during an epidemic, including but not limited to women, children, persons with disability, persons of scheduled castes and tribes, other backward castes, and the persons falling below poverty line;

(d) provisions for protecting the providers of essential services including healthcare personnel, police force, sanitation workers; and

(e) provisions to ensure equitable access to resources including healthcare, education, food, water, safe living spaces.

CHAPTER IV

DECLARING AN EPIDEMIC

Declaration of Epidemic at National or State level.

11. (1) The Prime Minister shall declare a disease as a national epidemic on the request of the Union Minister of Health and Family Welfare, in consultation with the National Commission.

(2) The Chief Minister shall declare a disease as a state epidemic on the request of Minister of Health of the respective State, in consultation with the State Commission.

(3) The declaration shall be done within twenty four hours after receipt of such a request by the Prime Minister or the Chief Minister, respectively as the case may be.

Content of Declaration.

12. (1) The declaration of the epidemic shall contain the name of the epidemic; timeline, location and scope of occurrence of the epidemic; causes, ways of transmission, nature and danger of the epidemic; measures for preventing and controlling the epidemic and health establishments that shall admit and treat persons suffering from an epidemic disease.

(2) The content of declaration may vary according to the information available on the epidemic at the time of declaration.

Declaration of termination.

13. (1) The Prime Minister at National level and the Chief Minister in States shall be responsible for declaration of the termination of an epidemic, in consultation with the respective Health Ministers.

(2) The termination of an epidemic shall be declared when:

(a) no new cases of infection are detected after a certain period of time and such other conditions are met for each epidemic as stipulated by the National Commission in case of declaration of a national epidemic or the State Commission in case declaration of a state epidemic, as the case may be; and

(b) anti-epidemic measures to the satisfaction of the National Commission or the State Commission as the case may be, have been taken.

Effect of Declaration.

14. (1) In case of declaration of national epidemic, the National Commission shall execute the National Epidemic Plan with immediate effect.

(2) In case of declaration of state epidemic, the State Epidemic Commission shall execute the State Epidemic Plan with immediate effect.

(3) Mass media agencies shall carry accurate, prompt and truthful information after the declaration of an epidemic and declaration of the termination of an epidemic with proper details provided by competent agencies.

CHAPTER V

SPECIAL POWERS DURING DECLARATION OF AN EPIDEMIC

Powers regarding facilities and materials.

15. The appropriate Government, in consultation with National or State Commissions may exercise, for such period as the epidemic exists, the following powers over facilities and materials:—

(i) to close, direct and compel the evacuation of, or to decontaminate or cause to be decontaminated any facility of which there is reasonable cause to believe that it may endanger public health; and

(ii) to decontaminate or cause to be decontaminated, or destroy any material of which there is reasonable cause to believe that it may endanger the health of the public.

16. The appropriate Government, in consultation with National or State Commissions may exercise, for such period as the epidemic exists, the following powers concerning facilities, materials, roads, or public areas—

Powers regarding access to and control of facilities and property.

(i) to procure, by eminent domain or otherwise, construct, lease, transport, store, maintain, renovate, or distribute materials and facilities as may be reasonable and necessary to contain the epidemic, with the right to take immediate possession thereof.

Explanation.—for the purpose of this clause, materials and facilities include, but not limited to, communication devices, transport, real estate, fuels, food, and clothing.

(ii) to require a health care facility to provide services or the use of its facility if such services or use are reasonable and necessary to contain the epidemic as a condition of licensure, authorization or the ability to continue doing business in the state as a health care facility including transferring the management and supervision of the health care facility to appropriate authority for a limited or unlimited period of time, but shall in no circumstance exceed the termination of the declaration of a state of public health emergency;

(iii) to inspect, control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, allocation, or any other means, the use, sale, dispensing, distribution, or transportation of food, fuel, clothing and other commodities, as may be reasonable and necessary to contain the epidemic; and

(iv) control of roads and public areas:—

(a) to prescribe routes, modes of transportation, and destinations in connection with the evacuation of persons or the provision of essential services; and

(b) to control or limit ingress and egress to and from any stricken or threatened public area, the movement of persons within the area, and the occupancy of premises therein, if such measure is reasonable and necessary to contain the epidemic.

17. The appropriate Government, in consultation with National or State Commissions may exercise, for such period as the epidemic exists, the following powers regarding the safe disposal of infectious waste—

Safe Disposal of infectious waste.

(i) to lay down, adopt and enforce measures to provide for the safe disposal of infectious waste as may be reasonable and necessary to contain the epidemic including the collection, storage, handling, destruction, treatment, transportation, and disposal of infectious waste;

(ii) To require any business or facility authorized to collect, store, handle, destroy, treat, transport, and dispose of infectious waste under the laws of the State, and any landfill business or other such property, to accept infectious waste, or provide services or the use of the business, facility, or property if such measure is reasonable and necessary to contain the epidemic by condition of licensure, authorization, or the ability to continue doing business in the State as such a business or facility and the use of the business, facility, or property may include transferring the management and

supervision of such business, facility, or property to the appropriate authority for a limited or unlimited period of time, but shall not exceed the termination of the declaration of a national or state epidemic;

(iii) to procure, by eminent domain or otherwise, any business or facility authorized to collect, store, handle, destroy, treat, transport, and dispose of infectious waste under the appropriate laws and any landfill business or other such property as may be reasonable and necessary to contain the epidemic, with the right to take immediate possession thereof; and

(iv) to direct that all bags, boxes, or other containers for infectious waste shall be clearly identified as containing infectious waste, and if known, the type of infectious waste.

Safe dispose of
human
remains.

18. The appropriate Government, in consultation with National or State Commissions may exercise, for such period as the epidemic exists, the following powers regarding the safe disposal of human remains—

(i) to lay down adopt and enforce measures to provide for the safe disposal of human remains as may be reasonable and necessary to contain the epidemic including the embalming, burial, cremation, interment, disinterment, transportation, and disposal of human remains;

(ii) to take possession or control of any human remains;

(iii) to order the disposal of any human remains of a person who has died of a contagious disease through burial or cremation within twenty-four hours after death:

Provided that the religious, cultural, family, and individual beliefs of the deceased person or his or her family shall be considered when disposing of any human remains;

(iv) to require any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of human remains under the laws of the State to accept any human remains or provide the use of its business or facility if such steps are reasonable and necessary to contain the epidemic as a condition of licensure, authorization, or the ability to continue doing business in the State as such a business or facility including transferring the management and supervision of such business or facility to the appropriate authority for a limited or unlimited period of time, but shall not exceed the termination of the declaration of a state of public health emergency;

(v) to procure, by eminent domain or otherwise, any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of human remains under the laws of the State as may be reasonable and necessary to contain the epidemic, with the right to take immediate possession thereof;

(vi) to direct that each human remains prior to disposal shall be clearly labelled with all available information to identify the deceased and the circumstances of death and to require that any human remains of a deceased person with a contagious disease shall have an external, clearly visible tag indicating that the human remains is infected and, if known, the contagious disease;

(vii) to require every person in charge of disposing of any human remains to maintain a written or electronic record of each human remains and all such available information to identify the deceased and the circumstances of death and disposal:

Provided that human remains cannot be identified prior to disposal, a qualified person shall, to the extent possible, take fingerprints and photographs of the human remains, obtain identifying dental information, and collect a DNA specimen which shall be promptly forwarded to the appropriate authority, in such manner as may be prescribed.

19. (1) The appropriate Government, in consultation with National or State Commission, may purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies that it deems advisable in the interest of preparing for or controlling an epidemic.

Control of health care supplies.

(2) If the epidemic results in a State-wide or regional shortage or threatened shortage of any product or, whether or not such product has been purchased by the appropriate authority, the appropriate Government, in consultation with National or State Commission, may control, restrict and regulate by rationing and using quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing, distribution, or transportation of the relevant product necessary to protect the public health, safety and welfare of the people.

(3) The appropriate Government may, during an epidemic, procure, store, or distribute any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies located within the State as may be reasonable and necessary to contain the epidemic, with the right to take immediate possession thereof.

20. The appropriate Government shall pay fair compensation to the owner of any facilities or materials that are lawfully taken or appropriated by it for its temporary or permanent use under this Act, in such manner as may be prescribed.

Compensation.

21. (1) To the extent consistent with the protection of public health, prior to the destruction of any property under this Act, the appropriate Government, in Consultation with National or State Commission, shall institute appropriate Civil proceedings against the property to be destroyed in accordance with the existing laws.

Destruction of property.

(2) Any property acquired by the appropriate Government through such proceedings shall, after entry of the decree, be disposed of by destruction as court may direct.

22. The appropriate Government may use every available means during an epidemic to prevent the transmission of infectious disease and to ensure that all cases of contagious disease are subject to proper control and treatment.

Protection of persons.

23. (1) The appropriate Government may perform physical examinations and tests during an epidemic as is necessary for the diagnosis or treatment of individuals.

Medical examination and testing.

(2) The appropriate Government shall ensure that, —

(i) Medical examinations or tests shall be performed by such qualified person authorized by the appropriate Government.

(ii) Medical examinations or tests are not such as are reasonably likely to lead to serious harm to the affected individual.

(3) The appropriate Government may isolate or quarantine, any person whose refusal of medical examination or testing results in uncertainty regarding whether he or she has been exposed to or is infected with a contagious or possibly contagious disease or otherwise poses a danger to public health.

24. The appropriate Government may exercise the following emergency powers during an epidemic over persons as necessary to address the public health emergency—

Vaccination and treatment.

(1) to administer vaccination:—

(a) vaccination shall be performed by any qualified person authorized to do so by the appropriate Government;

(b) a vaccine to be administered shall not be such as is reasonably likely to lead to serious harm to the affected individual; and

(c) to prevent the spread of contagious or possibly contagious disease, the appropriate Government may isolate or quarantine, persons who are unable or unwilling

for reasons of health, choice or conscience to undergo vaccination pursuant to this Act.

(2) to treat persons exposed to or infected with disease,—

(a) treatment may be administered by any qualified person authorized to do so by the appropriate Government;

(b) treatment shall not be such as is reasonably likely to lead to serious harm to the affected individual; and

(c) to prevent the spread of contagious or possibly contagious disease, the appropriate Government may isolate or quarantine persons who are unable or unwilling for reasons of health, religion, or conscience to undergo treatment pursuant to this Act.

Procedure for
isolation and
quarantine.

25. (1) During an epidemic, the isolation and quarantine of individuals or groups shall be done by procedure established under this Act.

(2) The designated agencies may quarantine or isolate an individual or a group of individuals after obtaining a written directive from the concerned District Magistrate in such manner as may be prescribed.

(3) A notice, physically or electronically, shall be served to the individual or group of individuals identified to be isolated at least twenty four hours before the isolation or quarantine is set to begin.

(4) The individual shall have the right to be heard by the District Magistrate.

(5) The hearing shall take place in such manner as may be prescribed.

(6) Notwithstanding anything in this section, the appropriate Government may temporarily quarantine or isolate a person without notice, if it has reasonable grounds to believe that such quarantine or isolation is in larger public interest:

Provided that a written record of such grounds shall be maintained with the appropriate Government and shall be made available to the person being subjected to quarantine or isolation.

Testing.

26. The appropriate Government may collect specimens and perform tests on living persons, deceased person, animal (living or deceased), and acquire any previously collected specimen that are reasonable and necessary to respond to the epidemic.

Access to and
disclosure of
protected
health
information.

27. (1) The appropriate Government shall ensure privacy of persons at all stages including medical testing, treatment, vaccination, isolation, or quarantine.

(2) The access to non-identifiable protected health information of persons who have participated in medical testing, treatment, vaccination, isolation, or quarantine shall be provided to persons having a legitimate need to acquire or use the information:

Provided that legitimate need may include the treatment of the person who is the subject of health information; epidemiologic research; investigation into the causes of transmission or any other case as may be specified.

(3) Disclosure of protected information shall not be done to anyone without individual, written, specific and informed consent.

(4) Notwithstanding anything mentioned in this cause, disclosures may be made without consent:

(a) directly to the individual;

(b) to the individual's immediate family members or personal representative;

(c) in pursuance of any procedure established by law;

- (d) in pursuance of a court order or decree; and
- (e) to identify a deceased individual or to determine the manner or cause of death.

CHAPTER VI

DISSEMINATION OF INFORMATION

28. The appropriate Government shall inform the people when an epidemic has been declared or terminated, the measures to protect themselves during an epidemic, and the measures being taken to control the epidemic in such manner as may be prescribed. Dissemination of Information.

(1) The appropriate Government shall provide information by all available and reasonable means calculated to bring the information promptly to the attention of the general public including dissemination of information through more than two daily newspapers in English as well as local languages of the State, official websites of the appropriate Government updated at-least twice a day.

(2) The provision of information shall be made in a manner accessible to individuals with disabilities.

Explanation.— for the purpose of the section, information shall include but not limited to, number of cases recovered, total number of cases, number of casualties, number of people tested district wise, patient demographics, details of fatal cases, details on imported cases, or any such information as laid down by the National or State Commission and all the information shall be available in the archives digital as well as physically and shall be updated regularly on the digital medium.

CHAPTER VII

OFFENCES AND PENALTY

29. (1) Whoever knowingly obstructs the implementation of the provisions of this Act or aids and abets or incites said obstruction or restricts the scope of the provisions or performs any activity deemed to be an offence against elder persons under this Act or any other law shall be liable to be punished with imprisonment of not less than six months extendable upto two years or a fine of not less than rupees twenty thousand extendable upto rupees two lakh or both. Offences and penalty.

(2) Where any offence as described in sub-section (1) has been committed by an establishment, every person who, at the time the offence was committed, was the appointed head or was directly in charge of, and was responsible to the establishment for the conduct of its business, as well as the establishment, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in sub-sections (1) and (2) shall render any such person liable to any punishment if they prove that the offence was committed without their knowledge or that all due diligence was exercised to prevent the commission of such offence.

CHAPTER VIII

MISCELLANEOUS

30. Any person authorized to take any measures under this Act or any order or rule made thereunder, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860. Public Servant.

31. No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or any rule or order made thereunder. Act done in good faith.

Act to have overriding effect.

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

Power to make rules.

33. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act:

Provided that the State Government may notify suitable amendments in the rules, in consultation with Central Government, as considered appropriate to the circumstances of each State.

Central Government to provide funds.

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

35. (1) The Epidemic Diseases Act, 1897 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any measure taken under the provisions of the aforesaid Act, shall, in so far as such thing or measure is not inconsistent with the provisions of this Act, be deemed to have been taken under the provisions of this Act as if the said provisions were in force when such thing was done or such measure was taken and shall continue in force accordingly until superseded by anything done or any measure taken under this Act.

STATEMENT OF OBJECTS AND REASONS

India has seen outbreaks of multiple epidemics since independence. Each time a makeshift system is used to tackle the disease by invoking various legislations. The current administration of health policy in India is scattered between multiple laws and bodies, at the Central and the State level. In times of an epidemic, the Government often has to invoke different Acts to cope with the mounting pressure on the already insufficient health infrastructure of the country.

The Epidemic Diseases Act of 1897 is a British era law which has several lacunae. The Act uses ambiguous language to give unqualified powers to the Government. It fails to establish a definition of the "dangerous epidemic diseases" it is meant to contain.

In case a person is isolated or quarantined, the Act fails to lay down any criteria for regulating the conditions of such isolation. It fails to take cognizance of a patient's rights during a pandemic. The Act has not accommodated changing factors such as frequent overseas travel through air, interstate or international migration for work, increase in population, especially in cities and the current state of medical knowledge and health infrastructure.

The Act has been identified as an obsolete piece of legislation by various commissions, including Law Commission of India vide 248th Interim Report in September 2014, and the Report of the P.C. Jain Commission on Review of Administrative Laws in September, 1998. There is a need to repeal the Act in its current form and re-enactment in view of today's socio-economic context.

The Disaster Management Act, 2005 which is the next best legislation that can be invoked, empowers the Ministry of Home Affairs to take actions whereas in case of a pandemic, only the Ministry of Health & Family Welfare has the expertise and should be given the mandate to coordinate the nationwide response.

Thus, there is a pressing need for a single legislation to deal with epidemics, which is the objective of this Bill.

The Bill lays down a comprehensive plan to provide a coordinated and appropriate response in the event of an epidemic. It facilitates the early detection of an epidemic by creating a robust reporting system and by alerting the authorities during the early outbreak of a disease. It allows for investigation by granting access to individual's health information under specific circumstances.

The Bill equips Central, State and local Government with powers over properties, materials and other facilities which can be exercised reasonably when necessary for the care, treatment, and housing of patients and prevention of spread of the disease. They are also empowered to provide care, testing and treatment, and vaccination to persons who are ill or who have been exposed to the disease, and to separate affected individuals from the population at large to reduce disease transmission.

The Bill recognizes the importance of respecting the rights, dignity and privacy of patients during an epidemic and places sufficient restraint on the power given to authorities. The Bill encourages scientific understanding of public health threats and disease transmission and makes provision for information dissemination in accessible forms. The Bill also provides for an epidemic plan that would be made to protect the vulnerable groups during an epidemic.

The Bill provides Central, State and Local officials with the ability to prevent, detect manage, and contain emergency health threats without unreasonably interfering with civil rights and liberties.

Hence, this Bill.

DEREK O' BRIEN

FINANCIAL MEMORANDUM

Clauses 3 and 6 of the Bill, *inter-alia* provide for establishment of a National Epidemic Commission and State Epidemic Commission respectively.

Chapter V empowers the appropriate Governments, in the consultation with the National and State Epidemic Commission, to take special measures for decontamination of facilities and materials, safe disposal of infectious waste and human remains and purchase and distribution of healthcare supplies.

Clause 20 provides that appropriate Government shall pay just compensation to the owner of any facilities or materials that are lawfully taken or appropriated by it for its temporary or permanent use under this Bill.

Clause 34 provides that the Central Government shall provide funds for carrying out the purposes of the Bill.

The Bill, if enacted will involve additional expenditure from the Consolidated Fund of India, either recurring or non-recurring. At this stage, it is difficult to make any estimate of the expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Clause 33 of the Bill gives power to the Central Government to make rules for carrying out the provisions of the Bill. The State Government may make amendments in such rules in consultation with Central Government, as deemed appropriate to the circumstances of the State.

2. The matters in respect of which the rules may be made are matters of procedure and administrative detail only. The delegation of legislative power is, therefore, of a normal character.

II

BILL NO. XXX OF 2022

A Bill further to amend the Information Technology Act, 2000.

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

Short title and
commencement.

1. (1) This Act may be called the Information Technology (Amendment) Act, 2022.

(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 Information Technology Act, 2000 (hereinafter referred to as the principal Act):—

(i) after clause (tb), the following clauses shall be inserted, namely:—

(tc) "false information" includes information that is either verifiably false, defamatory or of such a nature as to not be verifiable.

(tb) "family" includes any persons related by blood or marriage or adoption.

(ii) After clause (za), the following clause shall be inserted, namely:—

(zaa) "physical violence" includes assault, simple hurt, grievous hurt, kidnapping, abduction, attempt to murder and murder.

(iii) after clause (zf), the following clause shall be inserted, namely:—

"(zfa) "sexual assault" means rape, molestation or any act which violates the bodily integrity of a woman;"

(iv) After clause (zg), the following clause shall be inserted, namely:—

"(zga) "threat" means any expression through word, sound, gesture or any audio-visual communication whatsoever of an intention to cause harm, alarm, intimidation or harassment or for incitement of harm, alarm, intimidation or harassment by any person;"

(v) After clause (zh), the following clause shall be inserted, namely:—

(zi) "woman" means any female regardless of age.

3. After section 66F of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
66G.

"66G. (1) The following acts shall be considered punishable offences, when committed against a woman, with the intention to intimidate or discredit her or force her to express a certain view, opinion or observation, or to force her to state any view, opinion or observation or to force her to refrain from expressing a certain view, opinion or observation:—

Punishment
for
threatening a
woman to
express her
opinion etc.

(a) threat of physical violence against a woman, her family or her property;

(b) threat of sexual assault;

(c) threat to reveal personal information including, but not limited to, her location, place of work and any other relevant detail which may be used to harm her physically or mentally;

(d) threat to spread false information about her;

(e) threat to question a person's citizenship or imputation of disloyalty to India;

(f) threat of false prosecution; and

(g) abuse based on religion, caste or sexuality.

(2) The offences referred to in section 66G (1) shall be cognizable and non-bailable and shall be punishable in the following manner:—

(i) For the first offence, the person shall be punishable with a maximum punishment of three years or with a fine of upto fifty thousand rupees.

(ii) For the second offence, the person shall be punishable with a maximum punishment of seven years and with a fine of upto four lakh rupees.

(iii) For the third and subsequent offences, the person shall be punishable with a maximum punishment of ten years and with a fine of upto ten lakh rupees:

Provided that the offence under section 66G shall be compoundable at the discretion of the victim.

(3) If any threat punishable under section 66G is carried out by the person making such threat or any other person incited by such person, the punishment shall be ten years imprisonment and with a fine of upto ten lakh rupees.

(4) Any amount imposed as fine under this section shall be paid to the victim as compensation."

4. In the Principal Act, after section 67B, the following section shall be inserted, namely:—

Insertion of
new section
67BA.

Grant of
injunctions
under section
66E, 66G, 67,
67A and 67B.

67BA. (1) Any person who is the victim of any offence under sections 66E, 66G, 67, 67A or 67B of this Act or a police officer investigating the same, shall have the right to approach the jurisdictional Magistrate for grant of an injunction against the accused, or any other person, company, organisation or entity for deletion of the offensive text, image, audio, video or other format and for prohibition from storing, retransmitting or repeating the offensive text, image, audio, video or other format, as the case may be.

(2) The Magistrate shall grant the injunction without notice to the accused if he is satisfied that *prima facie*, a case of an offence under sections 66E, 66G, 67, 67A and 67B of this Act exists.

(3) The order of the Magistrate under sub-section (2) shall also be served upon any person, company, organisation or entity in conformity with the provisions of this Act and the rules made thereunder for compliance.

(4) Any application under sub-section (1) shall be decided on the same day:

Provided that for reasons to be recorded, the Magistrate may dispose of the application within seven days.

(5) The injunction under sub-section (2) may be granted at the instance of the victim or of the investigating officer.

(6) Any order passed under this section shall be subject to revision in accordance with section 397 of the Code of Criminal Procedure, 1973.

2 of 1974.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to ensure the physical, social, religious, cultural, psychological and economic safety and well-being of women, particularly women who are targeted for reason of their religion, caste, economic status, social status or occupation. Women's autonomy of free speech and action is often curtailed by threats, abuse and actions designed to make women feel insecure and uncomfortable in the public sphere, particularly on the internet. Those who would seek to silence women in this manner use their purported anonymity to further their nefarious intentions. This is driven, at least in part, by a misapprehension that the law will not catch up with them.

2. This Bill, while being mindful of the fact that freedom of speech is a fundamental right recognises that free speech amounting to abuse interferes with the fundamental right to freedom of speech for others. Persistent abuse and creation of insecurity causes actionable wrongs not only against the individual but leads to deterioration of public order. The need is to ensure that attempts to silence women are adequately punished. Further, an effective and easy mechanism has to be available to women to ensure that offensive material is scrubbed quickly and effectively from the internet. Mere punishment of the offender does not protect the victim who may be subject to distress due to the continued existence or transmission of abusive material against her. As such, the facility of obtaining an order of scrubbing such material from the internet is a very necessary one for women who are so targeted on the internet, social media or other digital fora.

3. Hence, this Bill.

DEREK O' BRIEN

III

BILL NO. XLII OF 2022

A Bill further to amend the Reserve Bank of India Act, 1934.

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

Short title and
commencement.

1. (1) This Act may be called the Reserve Bank of India (Amendment) Act, 2022.

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

Amendment
of section 31.

2. In the Reserve Bank of India Act, 1934, sub-section (3) of section 31, shall be omitted.

2 of 1934.

STATEMENT OF OBJECTS AND REASONS

The insertion of sub-section (3) in section 31 of the Reserve Bank of India Act, 1934 through the Finance Act, 2017 introduced a new scheme called the Electoral Bond Scheme, which was notified on January 2, 2018. The Electoral Bond Scheme allows individuals (who are citizens of India) and domestic companies to donate electoral bonds — issued in multiples of Rs. 1,000, Rs. 10,000, Rs. 1 lakh, Rs. 10 lakhs and Rs. 1 crore — to political parties of their choice, which have to redeem them within fifteen days. A person being an individual can buy bonds, either singly or jointly with other individuals. No limit exists on the number of electoral bonds that a person (including corporate entities) can purchase. Only the Political Parties registered under Section 29A of the Representation of the People Act, 1951 (43 of 1951) and which secured not less than one per cent. of the votes polled in the last General Election to the House of the People or the Legislative Assembly of the State, shall be eligible to receive the Electoral Bonds. Under the Electoral Bond Scheme, 2018, the section 29C of The Representation of the People Act, 1951 has been amended to remove the obligation of political parties to keep a record of the identity of donors who give any sum of money through Electoral Bonds or report the same to the Election Commission of India (ECI) annually.

2. The amendment of the Reserve Bank of India Act, 1934 by the insertion of sub-section (3) in section 31 of the said Act, have made changes in our electoral system. First of all, previously, all political parties had to maintain a record of all donations above rupees twenty thousand including the name and address of the donor (Section 13A, Income Tax Act). But, the Electoral Bond Scheme, created as a result of this amendment, is an exception to this for donations greater than rupees twenty thousand which are made through electoral bonds. These are not only tax-exempt, but the political parties don't need to record the details of the donor anymore. Secondly, before the introduction of the amendment, there was a ceiling on the amount of money that a company could donate i.e. 7.5% of its average net profits during the previous three financial years (Section 182(1) of the Companies Act, 2013). This was meant to prevent shell companies from being set up to pump money into political parties. The electoral bond scheme that emerged out of the amendment of the Reserve Bank of India Act, 1934 has removed this ceiling. Thirdly, before the adoption of the electoral bond scheme, companies needed to disclose the amount of money donated and the names of the political parties to which they donated money in their profit and loss accounts (Section 182(3) of the Companies Act, 2013). However this provision for mandatory disclosure is removed now. Fourthly, the Foreign Contribution Regulation Act (FCRA), 2010 has also been amended, to allow foreign companies with subsidiaries in India to fund political parties in India.

3. In the present form, the said amendment in the Reserve Bank of India Act, 1934 and the resultant introduction of the Electoral Bond Scheme is non-transparent. More importantly, it violates the citizen's 'right to know'. The Indian Constitution derives its supreme power and authority from the people. One of the fundamental pillars of popular sovereignty and the democratic process in our country is the process of a free and fair election. The Electoral Bond Scheme seriously erodes the functioning of democracy because it has led to an enormous increase in anonymous donations to political parties. The principle of anonymity in donation leads to unlimited corporate donations to political parties of their choice. Apart from that, Electoral Bond Scheme allows the foreign corporates having subsidiaries in India to fund the election expense of political parties. This will create serious consequences because anonymous foreign funding can expose the democratic process to the whims and fancies of foreign corporate interests and lobbyists. It is against the very spirit of independent and impartial election.

4. Therefore, it is important to discontinue the scheme urgently by repealing the amendment made in the Reserve Bank of India Act, 1934 via the Finance Act, 2017. It should be mandatory for all political parties to declare the amount and source of donations that they receive in the given financial year, along with the details of the donors. There should be a standardised procedure to ensure transparency. Details of all donors should be made available for public scrutiny under the RTI Act.

5. Given the above, the aforesaid amendment in the Reserve Bank of India Act, 1934 by the insertion of sub-section (3) in section 31 is proposed to be repealed.

Hence, this Bill.

SANDOSH KUMAR P.

IV

BILL NO. LIV OF 2022

A Bill to ensure minimum one hundred days of work to all citizens within the age of eighteen to forty years in accordance with their educational qualification or skill as the case may be, and to provide unemployment allowance to those persons, to whom the authority concerned failed to provide such minimum days of work and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the National Employment Guarantee Act, 2022.

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; and different dates may be appointed for different States or for different areas in a State 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 in such State or, as the case may be, in such area:

Provided that this Act shall be applicable to the whole of the territory to which it extends within a period of three years from the date of its enactment.

Definitions.

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

(a) "adult" means a person who has completed his eighteenth year of age;

(b) "applicant" means an adult person who has not completed his fortieth year of age;

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

(d) "Fund" means the Employment Guarantee Fund established by the appropriate Government under section 9 of this Act;

(e) "minimum wage", in relation to any area, means the minimum wage fixed by the appropriate Government under the Code on Wages, 2019;

29 of 2019.

(f) "National Council" means the National Employment Registration Council constituted by the Central Government under sub-section (1) of section 5 of this Act;

(g) "prescribed" means prescribed by the rules made under this Act;

(h) "Scheme" means the Employment Guarantee Scheme made by the appropriate Government under section 4 of this Act;

(i) "State Council" means the State Employment Registration Council constituted by the State Government under sub-section (1) of section 6 of this Act.

Guarantee of minimum employment.

3. (1) Save as otherwise provided, the appropriate Government shall provide employment to every applicant, for not less than one hundred days in every financial year, in accordance with the Scheme made under this Act.

(2) Every person who has done the work given to him under the Scheme shall be entitled to receive the proportionate wages fixed under the Scheme.

(3) Save as otherwise provided in this Act, the disbursement of wages shall be made on weekly or monthly basis, as may be prescribed.

(4) The appropriate Government may within the limits of its financial capacity, make provisions for securing work or employment to the applicant for any period beyond the period guaranteed under sub-section (1).

Employment Guarantee Scheme.

4. (1) The appropriate Government shall notify a Scheme, namely, the Employment Guarantee Scheme to ensure minimum one hundred days of employment in a financial year under this Act.

(2) The appropriate Government shall furnish a report once in every year to the National Council or the State Council, as the case may be, the number of vacancies from various departments, corporations, Government bodies, semi-Government authorities, Boards and other authorities coming under such Government to accommodate the applicants under this Act, in such manner as may be prescribed.

(3) The appropriate Government shall categorize the vacancies as Grade-1, Grade-2, Grade-3, Skilled and Manual.

Explanation.—For the purposes of this sub-section,—

"Grade -1" means those vacancies that require a post-graduate degree or diploma or any other post-graduate qualification, from a recognised university;

"Grade -2" means those vacancies that require a graduate degree or diploma or any other graduate level qualification, from a recognised university;

"Grade -3" means those vacancies that require a Higher Secondary School Certificate from a recognised Board of Education;

"Skilled" means those vacancies that require a specific skill any particular area of employment; and

"Manual" means those vacancies that require physical work without any skill.

(4) The appropriate Government shall include in the Scheme, the mode of payment of unemployment allowance provided under section 10 of this Act.

5. (1) The Central Government shall constitute a National Employment Registration Council within one year from the commencement of this Act.

National
Employment
Registration
Council.

(2) The National Council shall consist of the following members, nominated by the Central Government, in such manner as may be prescribed:—

- (a) a Chairperson;
- (b) a Vice-Chairperson;
- (c) a Secretary;
- (d) Chairpersons of every State Council; and
- (e) such members of representatives of youth organizations, as may be prescribed.

(3) The term of office of members of the National Council shall be five years.

(4) The terms and conditions and salaries and allowances of the Chairperson, Vice-Chairperson, Secretary, members, officers, staff etc., of the National Council shall be such as may be prescribed.

(5) The Central Government shall provide such officers and staff for the National Council as may be required.

6. (1) Every State Governments shall constitute a State Employment Registration Council within one year from the commencement of this Act.

State
Employment
Registration
Council.

(2) The State Council shall consist of the following members, nominated by the State Government, in such manner as may be prescribed:—

- (a) a Chairperson;
- (b) a Vice-Chairperson;
- (c) a Secretary; and
- (d) such number of representatives of youth organizations, as may be prescribed.

(3) The term of office of members of the State Council shall be five years.

(4) The terms and conditions and salaries and allowances of the Chairperson, Vice-Chairperson, Secretary, officers, staff etc., of the State Council shall be such as may be prescribed.

(5) The State Governments shall provide such officers and staff for the State Councils, as may be required.

7. (1) The National Council shall perform and discharge the following functions and duties, namely:—

Functions and
duties of
National
Council.

(a) ensure yearly reporting of vacancies by the Central Government, in such manner as may be prescribed;

(b) receive applications to the vacancies reported by the Central Government;

(c) publish the list of qualified applicants as per the category of vacancies;

(d) establish a central monitoring system;

(e) monitor the implementation of this Act;

(f) advice the Central Government on all matters concerning implementation of this Act; and

(g) any other function as may be assigned to it by the Central Government.

Functions and
duties of State
Council.

8. (1) The State Council shall perform and discharge the following functions and duties, namely:—

(a) ensure yearly reporting of vacancies by the State Government, in such manner as may be prescribed;

(b) receive applications to the vacancies reported by the State Government;

(c) publish the list of qualified applicants as per the category of vacancies;

(d) establish a state level monitoring system;

(e) monitor the implementation of this Act in the State;

(f) advice State Government on all matters concerning implementation of this Act; and

(g) any other function as may be assigned to it by the National Council or the State Government.

Employment
Guarantee
Fund.

9. (1) The appropriate Government shall, by notification, establish a Fund to be called the Employment Guarantee Fund for the purpose of this Act.

(2) The appropriate Government shall credit sufficient amount from the Consolidated Fund of such Government by way of grant or loan, in such manner as may be prescribed.

(3) The Fund shall be utilized in such manner and subject to such conditions and limitations as may be prescribed by the appropriate Government.

Payment of
Unemployment
Allowances.

10. (1) If an applicant for employment under the Scheme is not provided such employment within sixty days of receipt of his application, he shall be entitled to unemployment allowance in accordance with this Act.

(2) The quantum of unemployment allowance shall be fixed based on categories described under section 4 of this Act and proportionate amount so fixed shall be paid to the eligible applicants for each day the government fail to provide job in the prescribed manner.

Effect of non-
reporting of
vacancies.

11. (1) The appropriate Government shall notify the list of authorized officers who shall report vacancies under the Act.

(2) On failure of reporting vacancies by such authorized officer he shall be liable to disciplinary action under relevant conduct rules.

Savings.

12. The Mahatma Gandhi National Rural Employment Guarantee Act, 2005 and any rules, regulations or scheme made thereunder, shall remain in force, to the extent they are not inconsistent with the provisions of this Act. 42 of 2005.

Act to have
overriding
effect.

13. 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.

Power to
remove
difficulties.

14. 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 provision not inconsistent with the provisions of this Act as may be appear to be necessary or expedient for the removal of the difficulties.

Power to
make rules.

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

(2) The State Government may by notification in the State Gazette, consistent with this Act and the rules may be the Central Government, make rules for carrying out the purposes of this Act.

(3) Every rule made by the Central Government 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 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.

(4) 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.

STATEMENT OF OBJECTS AND REASONS

India has a very large working-age population, and yet it has been witnessing high rate of youth unemployment for a long time, which has been made worse by the COVID-19 pandemic. The Periodic Labour Force Survey (PLFS) of 2017-18, had reported a forty-five year high in India's open unemployment rate. The most alarming aspect of this statistics was high unemployment amongst the youth. The aggregate youth unemployment rate stood at 17.8 per cent. and has remained at above fifteen per cent. in the period from 2017 to 2020. The inability of young adults to secure jobs as per their skill and education is not only demotivating and discouraging for them but can also lead to a scarring effect on their career. Recently, the World Economic Forum had warned that, the high unemployment rate among the college educated in India may lead to "widespread youth disillusionment," and can threaten India's economic stability. India has witnessed the most recent manifestation of disillusionment among educated youth. More than twelve million people had applied for thirty-five thousand clerical jobs at Indian Railways which is one of the world's largest employers. This clearly reflects the grave crisis of jobless growth that we are undergoing.

In this scenario, eradication of unemployment in the country is the most important goal to be achieved to sustain economic growth and social justice. Although the Mahatma Gandhi National Rural Employment Guarantee Scheme guarantees hundred days of wage employment in a financial year to at least one member of every household, the scope of the Scheme is limited to rural areas alone. Under the existing Scheme, we cannot effectively address the joblessness among urban youth as well as educated and skilled youth across the country.

Hence, there is an urgent need for a comprehensive employment guarantee programme that can ensure minimum days of decent work without any differentiation on the basis of rural or urban areas. Apart from that, it is important to ensure job opportunity for all citizens based on their educational qualification and skill, as the case may be. It is high time that we recognise minimum as well as decent job opportunity as the part of the "Fundamental Right to Life" provided in the Constitution of India. Lastly, any such guarantee will be meaningful only if the Government ensures to provide unemployment allowance to those persons, to whom the authority concerned failed to provide such minimum days of work.

Hence, this Bill.

SANDOSH KUMAR P.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for constitution of National Employment Registration Council and Clause 6 also provides the constitution of the State Employment Registration Councils. Clause 9 of the Bill provides for the establishment of an Employment Guarantee Fund. Clause 10 stipulates the provision for unemployment allowance if the state fails to provide employment within sixty days of application.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund which cannot be estimated at present as the same would depend upon the number of job seekers and persons who would be paid unemployment allowance. Recurring expenditure is also likely to be incurred.

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.

V

BILL NO. XXXVII OF 2022

A Bill further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

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. After article 3 of the Constitution, the following article shall be inserted, namely:—

Insertion of
new article 3A.

"3A. Notwithstanding anything in this Constitution or any law for the time being in force, the Legislature of a State shall have the power to make laws for establishing or changing one or more capitals of the State within its territory and for all matters supplemental, incidental or consequential thereto."

Power of
Legislature of a
State to
establish or
change one or
more capitals
of the State.

STATEMENT OF OBJECTS AND REASONS

As a matter of practice, the power to decide which territory or territories shall serve as the capital or capitals of a State has been exercised solely by that State. This common practice has emerged as a natural extension of the fundamental principle that all matters involving the internal governance of a State are vested in that State only. Hence over the Years, all existing and new States have used this power to determine their respective capitals without any external interference. However, most recently, this decision-making power of the States was diluted and weakened through judicial overreach. In the case of *Rajadhani Rythu Parirakshnana Samithi v. State of Andhra Pradesh*, it was held that the State of Andhra Pradesh has no legislative competence to change its capital or establish multiple capitals.

This judgment is in stark contrast to the prevailing customary practice whereby States have been implicitly empowered to determine or change their capital or establish multiple capitals. For instance, Gujarat changed its capital from Ahmedabad to Gandhinagar in 1970. Several States have also established more than one capital, including Maharashtra (Mumbai and Nagpur) and Himachal Pradesh (Shimla and Dharamshala). Hence, it is not unprecedented for States to change their capitals or establish multiple capitals. Nor has the higher judiciary interfered with such decisions of the States in the past.

The aforementioned judgment also states that only the Parliament has the competence to decide the capital of a newly formed State. However, when viewed from the lens of federalism, the role of the Parliament is merely to provide the new State with a basic model of governance from which the subsequently elected State legislature can take over. This is evident from the several State Reorganization Acts passed by the Parliament in the exercise of its powers under Articles 3 and 4 of the Constitution. None of the State Reorganization Acts passed to date mention the territory that would serve as the capital of the newly created state(s). The practice has been that a territory decided by the Parliaments serves as a temporary capital till the elected representatives of the State decide on the new permanent capital.

However, the legal status of this inherent power of the States has remained unclear as the Constitution is silent in this regard. Nonetheless, it has become common practice for States to decide on all matters regarding their capitals and States have continued to exercise this power unabated since independence.

Hence, in light of the foregoing, this Bill seeks to insert a new provision in Part I of the Constitution to provide legislative certainty to the implied power of States to establish or change one or more of their capitals. This amendment will provide much-needed clarity on this contentious issue, in line with the federal structure of our Constitution.

Hence, this Bill.

V. VIJAYASAI REDDY

VI

BILL NO. XLV OF 2022

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

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

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2022. Short title and commencement.

2. In section 62 of the Representation of the People Act, 1951, after sub-section (5), the following sub-section shall be inserted, namely:— Amendment of section 62.

"(5A) Notwithstanding anything contained in sub-section (5), where any member of Parliament or any member of the Legislative Assembly or the Legislative Council of a State has been arrested or detained during the pendency of investigation, inquiry or trial for an offence but not convicted for that offence, he shall be given mandatory bail for:

(a) participating in the proceedings of either House of Parliament, or the Legislative Assembly or the Legislative Council of a State;

(b) voting in the business of the either House of Parliament, or the Legislative Assembly or the Legislative Council of a State; or

(c) voting in the elections for the President, Vice-President or any other position or office for which the member of Parliament or member of the Legislative Assembly or the Legislative Council of a State is otherwise entitled to vote by virtue of being such a member:

Provided that the arresting or detaining authority shall take all necessary measures to ensure the safe transportation of such arrested or detained member to and from the premises of either House of Parliament, or the Legislative Assembly or the Legislative Council of a State, as the case may be, for the purpose of this sub-section.”

STATEMENT OF OBJECTS AND REASONS

A member of Parliament or a member of the Legislative Assembly or the Legislative Council of a State performs an important public function in our democratic system. They play an instrumental role in representing the will and protecting the interests of their respective constituency/regions. Their active participation in the proceedings of the House of which they are members is absolutely essential for upholding the principles of representative democracy. Their right to vote in the business of their respective House and in all elections in which they are otherwise entitled to vote is also equally significant in the discharge of their duties.

The current framework under our electoral laws is such that a person is barred from voting at any election if he is confined in a prison or is in the lawful custody of the police. The only exception in this provision is for cases involving preventive detention. The blanket application of this provision across all categories of persons inevitably prevents public functionaries such as members of Parliament and members of the Legislative Assembly and the Legislative Council of States from discharging their duties in case of arrest or detention. This is applicable even in cases where such members are arrested or detained during the pendency of investigation, inquiry or trial for an offence but have not been convicted for that offence.

Our criminal system follows the cardinal principle of “innocent until proven guilty”. Barring an accused public representative who has not been convicted from voting in any election weakens our legal and democratic principles. There is a need to carve out an exception in our electoral laws to ensure that members of Parliament and members of the Legislative Assembly and the Legislative Council of States are not hindered in discharging their public duties in case of arrest or detention.

Therefore, this Bill seeks to amend the Representation of the People Act, 1951 to allow such members to receive mandatory bail in cases where they have been arrested or detained during the pendency of investigation, inquiry or trial for an offence but not convicted for that offence. The bail shall be granted only for the purpose of enabling these members to participate in the proceedings and vote in the business of the House and vote in the elections for the President, Vice-President or any other position or office for which the member is otherwise entitled to vote by virtue of being such a member.

For this purpose, the Bill also requires the arresting or detaining authority to take all necessary measures for ensuring the safe transportation of the arrested or detained member to and from the premises of the House of Parliament, or the Legislative Assembly or the Legislative Council of a State, as the case may be.

Hence, this Bill.

V. VIJAYASAI REDDY

VII

BILL NO. XLVII OF 2022

A Bill further to amend the Press Council Act, 1978.

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

Short title
and
commencement.

1. (1) This Act may be called the Press Council (Amendment) Act, 2022.

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

Amendment
of long title.

2. In long title of the Press Council of India Act, 1978 (hereinafter referred to as the principal Act) for the words "newspapers and news agencies", the words "newspapers, news agencies and news channels" shall be substituted.

37 of 1978.

Substitution of
references to
certain
expression by
certain other
expression.

3. Throughout the principal Act, for the words "newspaper, news agency", "newspapers, news agencies", "newspapers and news agencies", "newspaper or news agency" and "the newspaper, the news agency", wherever they occur, the words "newspaper, news agency, news channel", "newspapers, news agencies, news channels", "newspapers,

news agencies and news channels", "newspaper, news agency or news channel" and "the newspaper, the news agency, the news channel", shall respectively, subject to such changes as the rules of grammar require, be substituted.

4. In section 2 of the principal Act,—

Amendment
of Section 2.

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

"(ba) "fake news" means publication, knowingly or intentionally, of false, misleading or distorted information purporting to be news that:

(i) defames, undermines or benefits a person or entity;

(ii) causes fear or alarm among people;

(iii) incites violence, hatred or enmity towards a group of people; or

(iv) threatens the security, sovereignty, unity, integrity or public order of or within India.";

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

"(ca) "news" includes newly received or noteworthy information or analysis thereof, especially about recent events primarily of sociopolitical, economic or cultural nature and shall also include any news that is digitally transmitted over the internet or computer network;

(cb) "news channel" means a television channel which predominantly telecasts news programmes through cable television network or digital addressable systems, etc.;

(cc) "newspaper" means any printed periodical work containing news and current affairs content and shall include digitised version of the newspaper transmitted over the Internet or computer network;"

(iii) after clause (d), the following clause shall be inserted, namely:—

"(da) "press" includes newspapers, news channels, news agencies or such other entity, by whatever name called;"

(iv) in clause (e), for the words "expressions "editor" and "newspaper" have the meanings respectively assigned to them", the words "expression "editor" has the meaning assigned to it" shall be substituted.

5. In section 5 of the principal Act, in sub-section (3),—

Amendment
of Section 5.

(i) for clause (b), the following clause shall be substituted, namely:—

"(b) six shall be nominated in accordance with such procedure as may be prescribed from among persons who own or carry on the business of management of newspapers and news channels, so, however, that there shall be one representative each from the categories of big newspapers, medium newspapers, small newspapers, big news channels, medium news channels and small news channels;"

(ii) in clause (e) for the Explanation, the following shall be substituted, namely:—

"*Explanation.*—For the purpose of clause (b)—

(i) a 'newspaper' shall be deemed to be categorized as big, medium or small newspaper on the basis of its circulation per issue, as the Central Government may, by notification in the Official Gazette, notify from time to time; and

(ii) a 'news channel' shall be deemed to be categorized as big, medium or small news channel on the basis of its viewership, as the Central

Government may, by notification in the Official Gazette, notify from time to time."

Amendment
of Section 14.

6. In section 14 of the principal Act, after sub-section (1), the following sub-section shall be inserted namely:—

"(1A) Where, on receipt of a complaint made to it or otherwise, the Council has reason to believe that a newspaper, news agency, news channel or journalist has been found to be responsible for spreading fake news, such persons or entity shall be liable for the following penalties—

(i) in the event of first violation, suspension of accreditation, registration, licence, or permission, as the case may be, to operate for up to thirty days;

(ii) in the event of second violation, suspension of accreditation, registration, licence, or permission, as the case may be, to operate for up to ninety days; and

(iii) in the event of third violation, suspension of accreditation, registration, licence or permission, as the case may be, to operate for up to one-hundred and eighty days:

Provided that in the event of failure to comply with any of the penalties imposed, the accreditation, registration, licence, or permission, as the case may be, shall be revoked for the remaining period of its validity, and the newspaper, news agency, news channel or journalist shall also be disqualified for fresh application or renewal for up to five years."

STATEMENT OF OBJECT AND REASONS

As the fourth pillar of our democracy, the press owes a duty to the public to adhere to the highest ethical standards and to strive towards bringing the truth to the fore. In many ways, the press is the bloodstream of representative democracy as it enables the disclosure of information for the benefit of the masses and fosters the formation of informed public opinion.

However, the role of the press as a conduit for transparency and accountability in our governance system has been severely compromised over time. Ulterior motives, political propaganda and anti-social elements have impacted the independence and neutrality of our press and have fuelled a drastic increase in the incidence of fake news. As per the latest data by the National Crime Records Bureau (NCRB), a total of 1,527 cases of fake news were recorded in 2020, which is a 214% increase as compared to the 486 cases registered in 2019.

Although the Indian Penal Code imposes criminal punishment on any person who makes statements that conduce to public mischief, it neither provides a regulatory and procedural framework for governing the instances of fake news that are perpetuated by the press nor imposes any meaningful sanction on the news organisations that knowingly or intentionally facilitate such fake news.

To place a greater responsibility on the Press to put forth accurate facts and information before the public, this Bill seeks to amend the Press Council Act, 1978 to impose graded penalties for spreading fake news. At the same time, the Bill also brings television news channels under the ambit of the Press Council Act, 1978, considering that they are a major constituent of the Press and exert great influence in shaping public opinion. This will ensure that the malpractices and wrongdoings of the television news channels are brought under the control of the Press Council. Lastly, the Bill inserts a definition for 'news', which includes any news that is digitally transmitted over the internet or computer network. The Bill bring all forms of digital news within the purview of the Press Council.

Hence, this Bill.

V. VIJAYASAI REDDY

VIII

BILL NO. LIII OF 2022

A Bill to provide for protecting the interests of the State when State land is given for free or for a price or by alienation, for public purposes or otherwise to the Central Government, and that such land shall not be handed over to a third party without the concurrence of the donor State and for matters connected therewith or incidental thereto.

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

Short title and
commencement.

1. (1) This Act may be called the Protection of the State Resources Act, 2022.

(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,—

(i) “land” means the soil and any buildings, parts of buildings, or similar structures, anything permanently attached to the soil, rights under the land, rights above the land to such a height as is necessary for the ordinary use and enjoyment of the land and the structures upon it and easements.

(ii) “donor State” refers to the Government of the State or Union Territory which has provided land for the setting up of a Central Public Sector Undertakings, for free, by alienation or for a price.

3. The provisions of the Act shall be applicable in all cases where the partial or full control of a Central Public Sector Undertaking situated on the land provided by the donor State is transferred to a third party other than the Government of India or the donor State. Applicability.

4. The land handed over to the Central Government by the State or Union Territory for free or for a price or by alienation, for public purposes or otherwise, shall not be handed over to a third party without the express concurrence of the donor State, failing which, it shall be void *ab initio*. Concurrence of donor State.

5. If any land has been provided for setting up a Central Public Sector Undertaking and in case the Central Public Sector Undertaking is in the process of privatization, the donor State shall have the right to participate in the bidding process for acquiring the full or partial control of the Central Public Sector Undertaking, as the case may be: Right to participate in bidding by the donor State.

Provided that if the donor State is participating in the bidding process, the price of the land provided by the donor State, shall be added to the bidding amount offered by the donor State.

6. If the majority stake in the Central Public Sector Undertaking is handed over to a third party other than the donor State, by bidding or otherwise, the Central Government shall provide compensation to the donor State for the cost of the land it has given free or for a price or by alienation, and the rate of compensation shall be decided by the donor State as per the prevailing market rates and other relevant factors. Compensation.

7. A donor State may move to the respective High Court for protecting the right to fair compensation and right to participate in the bidding as provided by the Act. Jurisdiction of High Court.

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 have overriding effects.

STATEMENT OF OBJECTS AND REASONS

Ever since the neoliberal reforms were undertaken in the country, increasing pace of privatization has seen a number of Public Sector Undertakings in the country going for sale. The process of disinvestment involves selling of the assets of the Public Sector Undertakings to the bidders who are private players.

Many of the Public Sector Undertakings have been the result of the whole hearted support and cooperation of the respective States in which they are functioning. The States of India have always reacted enthusiastically to the prospect of having a Central Public Sector Undertakings established in their respective States.

As a result, the States have willingly shared their resources for the establishment of these Public Sector Undertakings and the primary contribution has been in the form of land. States have offered huge chunks of land for the setting up public sector institutions, factories, plants and laboratories, etc. under the ownership of Government of India.

These contributions were made in the good faith, by virtue of the presence of these Public Sector Undertakings, the people of the State will have avenues to secure employment. Such prospects are not made when the privatization of Central Public Sector Undertakings takes place.

There are instances in which the State which has allotted its precious land to the Central Public Sector Undertakings, is unable to participate in the bidding process. The terms and conditions are set in such a way that makes State Governments ineligible to participate in auction. This practice needs to be immediately addressed.

If the Central Government finds it impossible to run the Public Sector Undertakings effectively, then the state government should be given an opportunity to take up that Public Sector Undertakings or set up new industrial units in such lands. There have been several other objections posed by various States. Thus a law is necessary for protecting the interests of the State when Public Sector Undertakings are privatized.

In some cases, the land has been sold at a very nominal price with the good faith that the institution will serve the cause of the State. But when the institution is handed over to a third party, that implicit promise remains unfulfilled. Hence the States need legal protection even if the land has been sold to the Central Government for the said purpose.

Hence, this Bill.

DR. V. SIVADASAN

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides compensation to the donor State for the cost of the land by the Central Government for the purpose of the Act. The Bill, therefore, if enacted, would involve both non-recurring and recurring expenditure from the Consolidated Fund of India. However, at this juncture, it is difficult to estimate the amount required as it would depend upon the number of Public Sector Undertaking going for sale.

IX

BILL NO. XLIII OF 2022

A Bill further to amend the Constitution of India.

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

Short title
and
commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

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

Amendment
of article
102.

2. In article 102 of the Constitution, after clause (2), the following proviso shall be inserted, namely:—

"Provided that a member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall continue to be disqualified for a further period of six years from the date of his disqualification."

3. In article 191 of the Constitution, after clause (2), the following proviso shall be substituted:—

Amendment
of article 191.

"Provided that a member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall continue to be disqualified for a further period of six years from the date of his disqualification."

4. In Tenth Schedule to the Constitution—

Amendment
of the Tenth
Schedule.

(i) in paragraph 2 after clause (a) of sub-paragraph (1), the following shall be inserted, namely:—

"Provided that if a member of a House fails to present himself within seven days before the Chairman or Speaker of the House when such attendance is sought by the party whip, he shall be deemed to have voluntarily given up his membership of such political party."

(b) in clause (b) of sub-paragraph, after the words "if he votes or abstains from voting", the words "in a motion of a vote of confidence or no-confidence" shall be inserted.

(ii) for sub-paragraph (2) of paragraph 4, the following shall be substituted:—

"(2) For the purposes of sub-paragraph (1) of this paragraph, the merger of the original political party of a member of a House shall be deemed to have taken place if, and only if, not less than three-fourth of the members of the legislature party concerned have agreed to such merger."

(iii) in sub-paragraph (1) of paragraph 6, after the words, "the Speaker of such House", the following words shall be inserted, namely:—

"within a period of thirty days from the date on which the said question arises but not later than a period of three months";

(iv) after paragraph 6, the following new paragraph shall be inserted, namely:—

"6A. If the question as to whether, a Member of a House has become subject to disqualification under this Schedule, is not decided by the Chairman or, as the case may be, the Speaker of such House, within the period stipulated in paragraph 6, the disqualification proceedings against the said Member of the House shall consider to be deemed to have been lapsed."

Lapse of
disqualification
proceedings.

STATEMENT OF OBJECTS AND REASONS

With the framing of Constitution, we adopted the Westminster System of representative democracy followed in Britain in the formation of our Legislatures. The leader who enjoys the majority support of the Legislature is chosen as the head of the Government. During late 1970s, our country witnessed nefarious floor crossing by legislators in total disregard of the democratic wishes of the electorate who returned them. The elections of 1967 were a water-shed moment in Indian political history, in that they led to the introduction of coalition Governments in India.

2. After the failure of an attempt in 1978, the Constitution (52nd Amendment) Act, 1985 came into being and with it came Tenth Schedule to the Constitution. The law has undergone many changes since then. Paragraph 3 of the Tenth Schedule originally recognised a 'split' if one-third members of the legislature party decided to form or join another political party. The 2003 amendment changed it to "at least two-thirds of the members" should agree for merger.

3. While the anti-defection law envisaged the prevention of horse-trading of the legislators of our country, even today, the problem is notoriously prevalent. The rampant misuse of Tenth Schedule and instances of it being bypassed are a blot on our democracy and the recent instances of resort politics, use of money and muscle power have initiated a debated over the efficacy of having a Tenth Schedule which prohibits individual defection but legalizes mass defection along with putting a limit on the freedom of expression of a legislator on the floor of the house. The concept of a blanket whip on every voting leads to low quality debates and inability of Members to speak their mind or express their reservations against the policy of the Government.

4. We are an evolving democracy and the law makers should be given freedom to express their views in the Parliament or Legislatures along with having an enforcement mechanism which doesn't defeat the mandate given by the public.

5. The Bill aims to strengthen our democracy and help our public representatives in becoming informed law makers rather than political party workers, who have to follow a direction for this purpose, the Bill seeks to amend Articles 102 and 191 of the Constitution to make it more stringent by adding a proviso which leads to a further disqualification of six years from the date a member is disqualified under Tenth Schedule and through the introduction of such a provision, the legislators who indulge in horse trading and dishonor the mandate of the electorate shall be debarred from contesting a by-election and getting re-elected for a period of six years.

6. The Bill also seeks to amend paragraph 2 of Tenth Schedule through a proviso which clearly lays down that where a member is unable to present himself within seven days before the Chairman or Speaker of the House when his attendance is sought by the party whip, it shall amount to voluntarily giving up the membership of such political party. Due to ambiguous interpretation of voluntary giving up of membership, there has been a steep increase in cases of resort politics on the expense of the tax-payer. This provision lays down clear criteria that will lead to disqualification, if a person doesn't reply to the notice of the Chairman or Speaker.

7. Further, the amendment to clause (b) of sub-paragraph (1) of paragraph 2, will act as a reformative measure whereby Members will be exempted from the whip system except in cases of Confidence Motion or No Confidence Motion. Our country has a freedom of expression for everyone except the elected representatives who are bound by the whip system for discussion on legislations concerning the common man. The amendment to paragraph 4 shall increase the existing threshold for merger from 2/3rd to 3/4th of members of legislature party in order to avoid disqualification. This provision is necessitated due to growing instances of anti-defection in smaller States where the strength of the House ranges from 30 to 70.

8. The amendment to paragraph 6 is required due to its misuse by a party in power. The absence of a time limit to decide disqualification petition leads to political bias and at times the delay also extends till the House is dissolved. The time limit for the same has been proposed as thirty days, with an extension of maximum limit of three months. In addition to this, a new paragraph 6A is proposed to be added which renders a disqualification petition infructuous, if it is not decided or kept pending beyond three months.

Hence, this Bill.

RAGHAV CHADHA

X

BILL NO. LII OF 2022

A Bill to entitle every farmer the right to guaranteed Minimum Support Price for his crops or agricultural produces and for matters connected therewith or incidental thereto.

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

Short title and
commencement.

1. (1) This Act may be called the Minimum Support Price Guarantee Act, 2022.

(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,—

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

(b) "Commission" means the Commission for Guaranteed Minimum Support Price constituted under section 7 of this Act;

(c) "Comprehensive Cost" or "C2" means the actual cost of production as provided under sub-section (2) of section 6 of this Act;

(d) "farmer" means a person actively engaged in the economic or livelihood activity of growing crops and producing other primary agricultural commodities and will include all agricultural operational holders, cultivators, agricultural labourers, sharecroppers, tenants, poultry and livestock rearers, fishers, beekeepers, gardeners, pastoralists, non-corporate planters and planting labourers, as well as persons engaged in various farming related occupations such as sericulture, vermiculture and agro-forestry, tribal families or persons engaged in shifting cultivation and in the collection, use and sale of minor and non-timber forest produce;

(e) "Minimum Support Price" or "MSP" means the price calculated or determined under section 8 of the Act;

(f) "prescribed" means prescribed by rules made under this Act; and

(g) "trader" means an individual, business, group, or agency that purchases agricultural produce or crops from the farmers or is engaged in day-to-day buying and selling of agricultural produce.

3. (1) The Central Government shall within six months from the date of commencement of this Act, by notification constitute a Commission known as 'Commission for Guaranteed Minimum Support Price', for carrying out purposes of this Act.

Constitution
of the
Commission
for Guaranteed
Minimum
Support Price.

(2) The Commission shall have its headquarter at Delhi:

Provided that the Commission may establish such number of offices in the States as it deems necessary for carrying out the purposes of this Act.

(3) The Commission shall consist of not more than thirty members to be appointed by the Central Government for carrying out the purposes of this Act in such manner as may be prescribed:

Provided that the number of members may be modified by the Central Government, as and when it deems necessary for carrying out the purposes of this Act.

(4) The Commission shall consist of following members:—

(a) at least three Members of Parliament from the Lok Sabha and two Members of Parliament from the Rajya Sabha;

(b) two members serving as the Vice-Chancellors of Central Universities;

(c) three professors from the domain of agricultural studies or related fields having at least twenty years of teaching experience;

(d) two former judges of the Supreme Court;

(e) three members from the civil society having at least twenty years experience in agriculture or rural development;

(f) five members from farmers trade unions—one each representing North, South, East, West, and the Northeast parts of the country;

(g) three members from the Indian Council of Agricultural Research;

(h) the Union Secretary of the Ministry of Food and Public Distribution;

(i) the Union Secretary of the Ministry of Agriculture and Farmers Welfare;

(j) the Union Secretary of the Ministry of Rural Development;

(k) the Union Home Secretary;

(l) the Union Finance Secretary;

(m) the Chairman of the Parliamentary Standing Committee on Agriculture, Animal Husbandry and Food Processing; and

(n) the Chairman of the Parliamentary Standing Committee on Rural Development.

(5) The Central Government shall provide to the Commission such numbers of officers and staff, as it deems necessary for carrying out purposes of this Act.

(6) The salary and allowances payable to, and other terms and conditions of service of members of the Commission other than the persons who are not drawing salary from the Consolidated Fund of India or any university fund, shall be as may be prescribed by the Central Government.

Functions of
the
Commission.

4. (1) The Commission shall determine and recommend the guaranteed Minimum Support Price in the manner specified in section 8 of this Act for each crop or agricultural produce specified in the list prepared by the Commission under sub-section (2) of this section.

(2) The Commission shall, for carrying out the purposes of this Act, prepare a list of crops or agricultural produces eligible for guaranteed Minimum Support Price for Kharif Season and Rabi Season after extensive consultations with stakeholders in such manner as may be prescribed:

Provided that the list may be updated in every crop season if found appropriate by the Commission or as the case may be:

Provided further that preparation of the list may not be exclusively for Kharif and Rabi crop season and list of other seasons or durations may be prepared by the Commission as the case may be.

(3) Notwithstanding anything contained in sub-section (1) and (2), the Commission shall work in coordination with the appropriate Government for ensuring guaranteed minimum support price to farmers, development of agriculture, welfare of farmers, and undertake such other functions as may be prescribed.

Guarantee for
minimum
Support Price
by the Central
Government.

5. (1) The Central Government shall on the basis of recommendation for guaranteed Minimum Support Price as calculated and determined by the Commission, entitle farmers with the guarantee of Minimum Support Price for the crops prescribed by the Commission.

(2) The Minimum Support Price, as determined by the Commission, shall be notified by the Central Government not later than one week of the receipt of recommendation from the commission in such manner as may be prescribed.

Notification
of Guaranteed
Minimum
Support
Prices.

6. (1) The Central Government shall, upon receiving recommendation for Minimum Support Price as computed by the Commission under section 8, notify the guaranteed Minimum Support Prices for agricultural produces, before 15th March of every year for the Kharif crop season and before 31st July of every year for the Rabi season:

Provided that the dates of such notification may be modified by the Central Government on the recommendation of the Commission.

(2) Notwithstanding anything contained in sub-section (1), the Central Government, upon receiving recommendation of the Commission, shall notify the list of crops for guaranteed Minimum Support Price before 15th March of every year for the Kharif crop season and before 31st July of every year for the Rabi season:

Provided that the list may be modified by the Central Government on the recommendation of the commission:

Provided further that in case the Commission recommends a different list other than kharif and Rabi season, the same may be notified by the Central Government within fifteen days of receipt of such recommendation.

7. The appropriate Government shall ensure that government procurement agencies or traders transfer the payments for crops to farmers through direct bank transfers not more than thirty days after purchase or procurement of crops: Payment for crops.

Provided that in case of delay in payments to farmers for crops by traders or government procurement agencies as specified under this section, the appropriate Government shall pay a compensation at a monthly interest rate of eight per cent. to the farmers.

8. (1) The Commission shall determine and recommend to the Central Government the Minimum Support Price for agricultural produces, which shall not be less than a profit margin of not less than fifty per cent. and above the Comprehensive Cost. Minimum Support Price.

(2) The Comprehensive Cost shall include and take into account the following components:

(a) actual paid out cost, which shall include but not be limited to:—

(i) expenditure on seeds, fertilisers, and chemicals;

(ii) expenditure on hired labour;

(iii) expenditure on fuel, irrigation, machinery, etc;

(b) an imputed value of unpaid family labour that may be determined and fixed by the Commission;

(c) expenses on rentals;

(d) the interest forgone on owned land and fixed capital assets respectively;

(e) Any other cost that may be prescribed by the Commission for carrying out purposes of this Act:

Provided that the components may be modified by the Commission if felt appropriate from time to time, for carrying out the purposes of this Act.

9. Any trader who violates the provision of this Act shall be punishable with— Offences and penalties.

(a) a penalty of not less than rupees one lakh; or

(b) two hundred per cent. of the losses suffered by the farmer on account of non-payment of guaranteed Minimum Support Price; or

(c) cancellation of trading licences and banning from getting entitled with any business dealing with trading in the agriculture sector; or

(d) imprisonment for a period not less than three months which may extend to two years; or

(e) any one of or more of the penalties mentioned in clauses (b), (c) and (d).

10. The provisions of this Act of any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law, or any instrument having effect by virtue of any law other than this Act. Act to have overriding effect.

11. (1) The appropriate Government may make rules for carrying out purposes of this Act. Power to make rules.

(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 fourteen days which may be comprised in one session or in two 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 section shall be laid, as soon as may be, after it is made, before each House of the Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

STATEMENT OF OBJECTS AND REASONS

Agriculture is considered one of the most risky businesses in India. Farmers face risks from planting crops to finding markets for their agricultural produce, along with a barrage of risk-related factors including crop production, weather uncertainty, crop prices, credit and policy decisions. The main reason for price risk is the low remuneration cost, absence of market and excessive profit making by middlemen. The Minimum Support Price, over the time evolved as an impressive concept for ensuring welfare of farmers—the minimum price at which the government is ready to buy the entire quantity of food grains sold by the farmers. When the price of agricultural products is falling in the market, it becomes the duty of the Government to protect the interests of farmers by purchasing agricultural products at the minimum support price.

Farmers in many parts of India are forced to grow certain crops despite its ecological consequences and risk factors because of the government assurance that it will buy their whole produce at MSP. However, the absence of a legislative backing has added to the ambiguity and pushed the impressive idea towards slow death. Legalising MSP would put the government under a legal obligation to buy every grain of the crops for which MSPs are announced.

Moreover, as recommended by Government Committees, experts, farmers' unions, etc, the calculations and way of determining the MSP need to be revised and reformed. There is a need to revise the All paid out costs (A2) + Family Labour (FL) formula with the Comprehensive cost (C2) + 50 per cent. of C2 formula as per recommendations of the M.S. Swaminathan Committee. Comprehensive Cost (C2) is the actual cost of production as it takes into account for the rent and interest foregone on the land and machinery owned by farmers, in addition to the A2+FL rate. As per the Swaminathan Committee, the ideal formula to calculate the MSP should be: $MSP = C2 + 50 \text{ per cent. of } C2$.

A legal guarantee to farmers for Minimum Support Price backed by a binding legislation is the need of the hour for protecting the primary sector and ensuring welfare of the farmers.

Hence, this Bill.

RAGHAV CHADHA

FINANCIAL MEMORANDUM

Section 3 of the Bill provides for the Central Government to constitute a Commission for ensuring guaranteed Minimum Support Price for agricultural produce procured from farmers. Section 8 of the Bill provides for ensuring a new mechanism for calculating the Minimum Support Price on the basis of Comprehensive Cost (C2) incurred. The Bill also seeks to provide compensation to the farmers in case of delays and failures in payment for agriculture produce. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees three lakh crore per annum would be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 11 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 of a normal character.

XI

BILL NO. XLIV OF 2022

A Bill further to amend the All-India Services Act, 1951.

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

1. (1) This Act may be called the All-India Services (Amendment) Act, 2022.

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.

Insertion of new sections 3A, 3B and 3C.

Special responsibility and duty of a person appointed to an All-India Service to execute projects under his jurisdiction within scheduled time.

Evaluation of performance of every person appointed to an All-India Service.

Periodic review of persons appointed to the All-India Services on completion of five years.

2. After section 3 of the All-India Services Act, 1951, the following sections shall be inserted, namely:—

61 of 1951.

“3A.(1) It shall be the special responsibility and duty of a person appointed to an All-India Service to ensure that the plans or projects or any development work under his jurisdiction or charge or administrative control or for the execution or completion or carrying out of which he is responsible in any way, are executed or completed or carried out efficiently, economically and within the scheduled time.

(2) It shall be the responsibility and duty of a person appointed to an All-India Service to ensure that plans and projects recommended by the Members of Parliament or of the State Legislatures under any special scheme are executed within the schedule and such a person shall take special care to inform the Member of Parliament or of the State Legislature about the progress of the project from time to time.

3B. Notwithstanding anything contained in this Act, at the end of every year, the performance of every person appointed to an All-India Service shall be evaluated, with particular reference to the execution or carrying out of the specific plans or projects or development works under his jurisdiction or in his charge or administrative control or for the execution or carrying out of which he is responsible in a way, and a performance report shall be prepared thereon, in such manner as may be prescribed.

3C. (1) Notwithstanding anything contained in section 3, the Central Government shall, in consultation with the State Government concerned and parent department or Ministry, as the case may be, ensure periodic review of persons appointed to an All-India Service on completion of five years of tenure through a procedure to be conducted by the Union Public Service Commission in such manner as may be prescribed:

Provided that if the periodic review has not been conducted after five years of service in respect of a person appointed to an All-India Service, such review may be conducted at any other time as the Central Government may deem fit.

Explanation.—For the purposes of this section, the term “periodic review” shall mean the review of the entire service record including the Annual Confidential Report (ACR) of the person appointed to an All-India Service regarding suitability or otherwise of such person for further retention in the Service, to be conducted regularly for each person appointed to such Services.

(2) The Central Government, after consultation with the Union Public Service Commission and on conclusion of the periodic review of persons appointed to an All-India Service as specified under sub-section (1), may recommend for the lowest fifteen per cent. of such persons from each batch of such Services.

(a) the dismissal or pre-mature retirement of five per cent. of lowest of such persons from each batch; or

(b) administrative training, for the ten per cent. of such persons who have achieved a higher rank than the lowest five per cent., which includes and is not limited to, sending such persons for a compulsory career training program for a period of at least six months at the Academy concerned, in such manner as may be prescribed.

(3) The Central Government after consultation with the Government of the State concerned, Union Public Service Commission and the parent department or the Ministry, as the case may be, by notification in the Official Gazette, make rules for regulating the manner and procedure for the conduct of periodic review of persons appointed to an All-India Service.

(4) The Central Government after consultation with the Director of Academy concerned and Union Public Service Commission frame guidelines on the method and evaluation of administrative training as provided under clause (b) of sub-section (2).”

STATEMENT OF OBJECTS AND REASONS

For creating smooth administrative machinery, there is a need of effective accountability standards. The persons appointed to the All-India Services are a vital cog in the wheel of development of India. They are selected through a rigorous method of examination and are entrusted with the responsibility of development at district, State, National as well as international level. The need is to weed out the deadwood in order to maintain a high standard of efficiency and initiative in the All-India Services. It is not necessary that a good officer may continue to be efficient for all times to come. It may be that there may be some officers who may possess a better initiative and higher standard of efficiency and if they are given chance, the work of the Government might show marked improvement.

There are a number of judicial pronouncements in support of total assessment of the performance of the persons appointed to the All-India Services. There have also been observations that have approved any measure by which the assessment by superiors, with an opportunity to watch the work and conduct of an officer, is taken into account while deciding about premature retirement. It is sometimes found that a few officers of the All-India Services do tend to become mere passengers in the post or at the level in which he is placed for the time being. They become either listless or do not exhibit any creativity or innovativeness and do not achieve the desired results. The need is to strike a just balance between the termination from the service of a tired employee and maintenance of top efficiency in the diverse activities of administration.

The Bill, therefore, seeks to amend the All-India Services Act, 1951 with a view to provide for periodic review of performance of persons appointed to the All-India Services on completion of five years of tenure. It also provides for dismissal or pre-mature retirement of bottom five per cent. of officers at the periodic review and compulsory training to the other bottom ten per cent. officers who have achieved a higher rank than the bottom five per cent. of such officers of All-India Services at Academy concerned.

Hence, this Bill.

DR. ASHOK KUMAR MITTAL

XII

BILL NO. LI OF 2022

A Bill to provide for the establishment, development and management of an Institute for the education and training of Nuclear Medicine in India and for matters connected therewith and incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Indian Institute of Nuclear Medicine Act, 2022. 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 this Act, unless otherwise required— Definitions.
- (a) “Director” means the Director of the Institute appointed under section 10;
- (b) “Fund” means the Fund of the Institute referred to in section 14;

(c) “Governing Body” means the Governing Body of the Institute constituted under section 9;

(d) “Institute” means The Indian Institute of Nuclear Medicine established under section 3;

(e) “member” means a member of the institution;

(f) “Nuclear Medicine” means a specialized area of radiology that uses very small amounts of radioactive materials, or radiopharmaceuticals, to examine organ function and structure;

(g) “President” means the President of the Institute referred to in Section 7;

(h) “regulation” means the regulations made by the Institute under this Act;

(i) “rule” means the rules made by the Central Government under this Act;

(j) “teacher” includes a Professor, Associate Professor, Assistant Professor or any persons appointed under this Act for the conduct of teaching or research work or imparting medical education in the Institute.

CHAPTER II

THE INSTITUTE

Establishment
and
incorporation
of the
Institute of
Nuclear
Medicine.

3. (1) With effect from such date, as the Central Government may by notification in the Official Gazette appoint in this behalf, there shall be established for the purposes of this Act an institution to be called the Indian Institute of Nuclear Medicine.

(2) The Institute 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 Institute shall be located in the State of Punjab.

Composition
of the
Institute.

4. The Institute shall consist of the following members, namely:—

(a) the Cabinet Secretary to the Government of India, *ex officio*;

(b) the Director General of Health Services, Government of India, *ex officio*;

(c) the Director of the Institute, *ex officio*;

(d) the Director of Central Drug Research Institute, *ex officio*;

(e) the Chairman of the National Medical Commission of India, *ex officio*;

(f) the Director-General of the Council of Scientific and Industrial Research or his nominee, *ex officio*;

(g) the Secretaries to the Government of India in Department of Health and Family Welfare, and Department of Atomic Energy, *ex officio*;

(h) two representatives to be nominated by the Central Government, one each from the Ministry of Finance and the Ministry of Education;

(i) four representatives of the medical faculties of Indian Universities to be nominated by the Central Government in such manner as may be prescribed;

(j) three members of Parliament of whom two shall be elected from among themselves by the members of the House of the People and one from among themselves by the members of the Council of States; and

(k) three persons representing the Indian Medical Association to be nominated by the Central Government in such manner as may be prescribed.

5. (1) Save as otherwise provided in this section, the terms of a member other than an *ex-officio* member shall be five years from the date of nomination or election, as the case may be:

Term of office of, and vacancies among, members.

Provided that the term of office of a member elected under clause (j) of section 4 shall come to an end as soon as he becomes a Minister or Minister of State or Deputy Minister or, or the Speaker or the Deputy Speaker of the House of the People, or the Deputy Chairman of the Council of States or ceases to be a member of the House from which he was elected.

(2) The terms of the office of an *ex-officio* member shall continue so long as he holds the office by virtue of which he is such a member.

(3) The term of the office of such a member nominated or elected to fill a casual vacancy shall continue for the remainder of the term of such member in whose place he is nominated or elected.

(4) 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.

(5) An outgoing member shall be eligible for re-election.

(6) A member may resign by writing under his hand addressed to the Central Government, but he shall continue in his office until his resignation is accepted by the Central Government.

(7) The manner of filling the vacancies among the members shall be such as may be prescribed.

6. (1) There shall be a President for every Institute who shall be nominated by the Central Government from among the members other than the Director of the Institute.

President of the Institute.

(2) The President shall exercise such powers and discharge such functions as are laid down in this Act or as may be prescribed.

7. The President and members shall receive such allowances, if any, from the Institute as may be prescribed.

Allowances of President and members.

8. The Institute shall hold its first meeting at such time and place as may be appointed by the Central Government and shall observe such rules of procedure in regard to the transaction of business at the first meeting as may be laid down by that Government, and thereafter at such times and places and observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by regulation.

Meetings of the Institute.

9. (1) There shall be a Governing Body for the Institute which shall be constituted by such Institute from among its members in such manner as may be prescribed by regulations.

Governing Body and other committees of the Institute.

(2) The Governing Body shall be the Executive Committee of the Institute and shall exercise such powers and discharge such functions as the Institute may, by regulations made in this behalf, confer or impose upon it.

(3) The President of the Institute shall be the Chairman of the Governing Body and as Chairman thereof shall exercise such powers and discharge such functions as may be prescribed by regulations.

(4) The procedure to be followed in the exercise of its powers and discharge of its functions by the Governing Body, and the term of office of, and the manner of filling vacancies among, the members of the Governing Body shall be such as may be prescribed by regulations.

(5) Subject to such control and restrictions as may be prescribed, the Institute may constitute as many standing committees and as many *ad hoc* committees as it thinks fit for exercising any power or discharging any functions of the Institute or for inquiring into, or reporting or advising upon, any matter which the Institute may refer to them.

(6) A standing committee shall consist exclusively of three members of the Institute and an *ad hoc* committee may include persons who are not members of the Institute but the number of such persons shall not exceed one-half of its total membership.

(7) The Chairman and members of the Governing Body and the Chairman and members of a standing committee or an *ad hoc* committee shall receive such allowances, if any, as may be prescribed by regulations.

Staff of the
Institute.

10. (1) There shall be a Chief Executive Officer of the Institute who shall be designated as the Director and shall, subject to such rules as may be made by the Central Government in this behalf, be appointed by the Institute.

(2) The Director shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

(3) The Director shall act as the Secretary to the Institute as well as the Governing Body.

(4) The Director shall exercise such powers and discharge such functions as may be prescribed by regulations or as may be delegated to him by the Institute or the President of the Institute or by the Governing Body or the Chairman of the Governing Body.

(5) Subject to such rules as may be made by the Central Government in this behalf, the Institute may appoint such number of other officers and employees as may be necessary for the exercise of its powers and discharge of its functions and may determine the designations and grades of such other officers and employees.

(6) The Director and other officers and employees of the Institute shall be entitled to such salary and allowances and shall be governed by such conditions of service in respect of leave, pension, provident fund and other matters as may be prescribed by regulations made in this behalf.

Objects of the
Institute.

11. The objects of the Institute shall be—

(a) to develop patterns of teaching in under-graduate and post-graduate medical education in Nuclear Medicine and all its branches so as to demonstrate a high standard of medical education to all medical colleges and other allied institutions in India;

(b) to bring together in one place educational facilities of the highest order for the training of personnel in all important branches of Nuclear Medicine; and

(c) to attain self-sufficiency in post-graduate medical education.

Functions of
the Institute.

12. With a view to promotion of the objects specified in section 11, the Institute may—

(a) provide for under-graduate and post-graduate teaching in Nuclear Medicine and other allied sciences, including physical and biological sciences;

(b) provide facilities for research in the various branches of Nuclear Medicine;

(c) conduct experiments in new methods of Nuclear Medicine, both under-graduate and post-graduate, in order to arrive at satisfactory standards of such education;

(d) prescribe courses and curricula for both under-graduate and post-graduate studies in Nuclear Medicine;

(e) notwithstanding anything contained in any other law for the time being in force, establish and maintain—

(i) one or more medical colleges with different departments, including a department of radiology, sufficiently staffed and equipped to undertake not only under-graduate medical education but also post-graduate medical education in different subjects;

- (ii) one or more well-equipped hospitals;
- (iii) a nursing college sufficiently staffed and equipped for the training of nurses;
- (iv) rural and urban health organisations which will form centres for the field training of the students of the Institute as well as for research into community health problems; and
- (v) other institutions for the training of different types of health workers;
- (f) train teachers for the different medical colleges in India;
- (g) hold examinations and grant such degrees, diplomas and other academic distinctions and titles in under-graduate and post-graduate medical education as may be laid down in the regulations;
- (h) institute, and appoint persons to, professorships, readerships, lectureships and posts of any description in accordance with regulations;
- (i) received grants from the Government and gifts, donations, benefactions, bequests and transfers of properties, both movable and immovable, from donors, benefactors, testators or transferors, as the case may be;
- (j) deal with any property belonging to, or vested in, the Institute in any manner which is considered necessary for promoting the objects specified in section 11;
- (k) demand and receive such fees and other charges as may be prescribed by regulations;
- (l) construct quarters for its staff and allot such quarters to the staff in accordance with such regulations as may be made in this behalf;
- (m) borrow money, with the prior approval of the Central Government, on the security of the property of the Institute.

13. The Central Government may, under appropriation made by Parliament by law in this behalf, pay to the Institute in each financial year such sums of money and in such manner as may be considered necessary by that Government for the exercise of its powers and discharge of its functions under this Act.

Payment to the Institute.

14. (1) The Institute shall maintain a Fund to which shall be credited—

Fund of the Institute.

- (a) all moneys provided by the Central Government;
- (b) all fees and other charges received by the Institute;
- (c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and
- (d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the Fund shall be deposited in such banks or invested in such manner as the Institute may, with the approval of the Central Government, decide.

(3) The fund shall be utilised towards meeting the expenses of the Institute including expenses incurred in the exercise of its powers and discharge of its functions under section 12.

15. The Institute shall prepare, in such form and at such time every year as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure of the Institute and shall forward to the Central Government such number of copies thereof, as may be prescribed.

Budget of the Institute.

Accounts and
audit.

16. (1) The Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance-sheet, in such form as the Central Government may by rules prescribe in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Institute 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 Institute 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 the Institute 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 Institute as well as of the institutions established and maintained by it.

(4) The accounts of the Institute 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 both Houses of Parliament.

Annual
report.

17. The Institute shall prepare for every year a report of its activities during that year and submit the report to the Central Government in such form and on or before such date as may be prescribed and a copy of this report shall be laid before both Houses of Parliament within one month of its receipt.

Pension and
Provident
funds.

18. The Institute shall constitute for the benefit of its officers, teachers and other employees, in such manner and subject to such conditions as may be prescribed by regulations, such pension and provident funds as it may deem fit.

Authentication
of the orders
and
instruments of
the Institute.

19. All orders and decisions of the Institute shall be authenticated by the signature of the President or any other member authorised by the Institute in this behalf and all other instruments shall be authenticated by the signature of the Director or any other officer of every Institute authorised by the Institute, as may be prescribed.

Acts and
proceedings
not to be
invalidated by
vacancies,
etc.

20. No act done or proceeding taken by the Institute, Governing Body or any standing or *ad hoc* committee under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Institute, Governing Body or such standing or *ad hoc* committee.

Grant of
medical
degrees,
diplomas etc.
by the Institute.

21. Notwithstanding anything contained in any other law for the time being in force, the Institute shall have power to grant medical, dental or nursing degrees, diplomas and other academic distinctions and title under this Act.

Control by
Central
Government.

22. The Institute shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

Resolution of
differences.

23. If in, or in connection with, the exercise of its powers and discharge of its functions by the Institute under this Act, any dispute arises between the Institute and the Central Government, the decision of the Central Government on such dispute shall be final.

Returns and
information.

24. The Institute shall furnish to the Central Government such reports, returns and other information as that Government may require from time to time.

Power to
make rules.

25. (1) The Central Government, after consultation with the Institute, may, by notification in the Official Gazette, make rules to carry out the purposes of this Act:

Provided that consultation with the Institute shall not be necessary on the first occasion of the making of rules under this section, but the Central Government

shall take into consideration any suggestions which the Institute may make in relation to the amendment of such rules after they are made.

(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:—

- (a) the manner of nomination of members under clause (i) of section 4;
- (b) the control and restrictions in relation to the constitution of standing and *ad hoc* committees under sub-section (5) of section 9;
- (c) the conditions of service of, the procedure to be followed by, and the manner of filling vacancies among, members of the Institute;
- (d) the powers and functions to be exercised and discharged by the President of the Institute;
- (e) the allowances, if any, to be paid to the President and members of the Institute;
- (f) the number of officers and employees that may be appointed by the Institute and the manner of such appointment;
- (g) the form in which and the time at which the budget and annual reports shall be prepared by the Institute and the number of copies thereof to be forwarded to the Central Government;
- (h) the form and manner in which returns and information are to be furnished by the Institute to the Central Government; and
- (i) any other matter which has to be or may be prescribed by rules.

26. (1) The Institute with the previous approval of the Central Government, may, by notification in the Official Gazette make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act, and without prejudice to the generality of this power, such regulations may provide for—

Power to make regulations.

- (a) the summoning and holding of meetings other than the first meeting of the Institute, the time and place where such meetings are to be held, the conduct of business at such meetings and the number of members necessary to form a quorum;
- (b) the manner of constituting the Governing Body and standing and *ad hoc* committees, the term of office of, and the manner of filling vacancies among, the members of, the Governing Body and standing and *ad hoc* committees;
- (c) the powers and functions to be exercised and discharged by the President of the Institute and the Chairman of the Governing Body;
- (d) the allowances, if any, to be paid to the Chairman and the members of the Governing Body and of standing and *ad hoc* committees;
- (e) the procedure to be followed by the Governing Body and standing and *ad hoc* committees in the conduct of their business, exercise of their powers and discharge of their functions;
- (f) the tenure of office, salaries and allowances and other conditions of service of the Director and other officers and employees of the Institute including teachers appointed by the Institute;
- (g) the powers and duties of the Chairman of the Governing Body;
- (h) the powers and duties of the Director and other officers and employees of the Institute;
- (i) the management of the properties of the Institute;

(j) the degrees, diplomas and other academic distinctions and titles which may be granted by the Institute;

(k) the professorships, readerships, lectureships and other posts which may be instituted and persons who may be appointed to such professorships, readerships, lectureships and other posts;

(l) the fees and other charges which may be demanded and received by the Institute;

(m) the manner in which, and the conditions subject to which, pension and provident funds may be constituted for the benefit of officers, teachers and other employees of the Institute; and

(n) any other matter for which under this Act provisions may be made by regulations.

(2) Until the Institute is established under this Act, any regulation which may be made under sub-section (1) may be made by the Central Government, and any regulation so made may be altered or rescinded by the Institute in exercise of its powers under sub-section (1).

Rules and regulations to be laid before Parliament.

27. Every rule and regulation 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 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.

STATEMENT OF OBJECTS AND REASONS

Mankind on every state of its existence and growth has always dealt with many adverse situations be it manmade or an act of God. Diseases like the ongoing Covid 19 have impacted the human civilisation a lot, many a times bringing it at a standstill. Humans from time to time, whilst facing hardships have taken out new methods and developed nuclear medicine technologies to tackle such diseases. The case of diseases like cancer, AIDS and HIV are not very different.

Humans till date have not been able to find a permanent cure to life threatening diseases like cancer which is now becoming a major cause of death amongst millions around the world. To treat such illnesses, non-conventional techniques like the use of nuclear medicine technology could be very useful. A technology, well-known for its ability to cause destruction is now being used to treat major terminal illnesses. However, the use and availability of these kinds of treatments still remain limited and not open to everyone.

Cancer cases in India increased at an average annual rate of 1.1 to 2 per cent. from 2010-2019, according to many reports. Deaths from cancer in the country also went up at an average rate of 0.1 to 1 per cent. in the same period. New cancer cases jumped to over 23 million in 2019 from 18.7 million in 2010. Cancer deaths reached 10 million in 2019 from 8.29 million in 2010. These figures represent an increase of 20.9 per cent. and 26.3 per cent. respectively. In 2019, cancer was the leading cause of deaths globally after cardiovascular diseases, the report showed. TBL cancer was the top cause of cancer deaths among males in 119 countries and territories and females in 27 countries and territories.

Nuclear medicine therapy is an approach to treating cancer that might be used with or after other treatment options, such as chemotherapy and surgery. It won't usually lead to a cure unless combined with other therapies. But for many people it will control symptoms and shrink and stabilize the tumours, sometimes for years. Nuclear medicine therapy is sometimes the best option for people who no longer respond to other treatments.

Nuclear medicine therapy, is also called peptide receptor radionuclide therapy (PRRT), targeted radiotherapy, radionuclide therapy therapeutic nuclear medicine and a theragnostic approach to treating cancer. Opening a university or institution to conduct research, making this technology could turn to be a revolutionary move that can make India a pioneer in the field of nuclear medicine technology.

The location for this Institute has been proposed in Punjab as the state of Punjab is heavily dependent on rural economy and agriculture, and even lacks basic healthcare facilities. Establishing an Institute like this would help and promote diversification of its economy. The move could lead to rapid development of local healthcare facilities and infrastructure that could lead to increase in life expectancy and other factors related to human development index, eventually improving the living standards to the local residents of the state.

Through this Institute India could collaborate with the global community to develop and evolve nuclear medicine technology into a widely used and a safer alternative. Nuclear medicine can not only treat cancer but other diseases related to heart and other vital organs.

Nuclear medicine can also be considered as a very accurate measure especially when it comes to treating and curing cancer. This type of medicine technology is used across the world through various world class bodies like the Pennsylvania College of Health Sciences in the United States or institutions like AIIMS in India. This Bill aims at creating an Institute that solely focuses on the development of Nuclear Medicine Technology. There has been little exploration in the development of nuclear technology and it would require a lot of capital from both the government (at all levels) and also the thriving private industry of India. Institutions of such magnitude would require world class sophisticated equipment for study and research purposes.

The Bill has made provisions that bring the Institute under the supervision of the Department of Atomic Energy that will help in securing the safety of people working with the technology and maintaining the secrecy of its confidential information. The Institute would attract highly trained and educated professionals as its faculty members and employees, supported by the autonomy to formulate its own rules and policy and would have the opportunity to collaborate with other government institutions like DRDO and AIIMS.

Therefore establishing this Institute to conduct research in the field of nuclear medicine technology would be a revolutionary move, that could make India a pioneer in this field. Further, such research would also increase the use and awareness of this type of medical treatment by making it affordable for masses and guarding the technology to avoid misuse of the same.

Hence, this Bill.

DR. ASHOK KUMAR MITTAL

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to establish an Institute to be known as the Indian Institute of Nuclear Medicine. Clause 7 provides for allowance of President and members of the Institute. Clause 9 provides for allowances to the Chairman and members of the Standing or *ad hoc* Committees. Clause 13 requires for the Central Government to make payment to the Institute for exercise of its powers and discharge of its functions under this Act. The Bill, if enacted, would involve additional expenditure from the Consolidated Fund of India and it is difficult to estimate the expenditure at this juncture.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 25 and 26 of the Bill empower the Central Government to make rules and regulations for carrying out the purposes of this Bill. The rules and regulations will relate to matters of details only.

The delegation of legislative power is of normal character.

XIII

BILL NO. XLIX OF 2022

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

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

Short title and
commencement.

1. (1) This Act may be called the Indian Penal (Amendment) Act, 2022.

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

Insertion of
new sections
295B & 295C.

2. In the Indian Penal Code, 1860 after section 295A, the following sections shall be inserted, namely:— 45 of 1860.

Willfully
defiling of
Srimad
Bhagwad Gita,
Sri Gurugranth
Sahib, Holy
Quran and
Holy Bible etc.

"295B. Whoever willfully defiles, damages or desecrates copy of Srimad Bhagwad Gita, Sri Gurugranth Sahib, Holy Quran, Holy Bible or any holy scripture by whatever name called or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose or with the intentions to hurt the religious feelings of the people, shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine or with both.

Use of impious
utterance or
action
concerning
God or sacred
things.

295C. Whoever, by words, either spoken or written or by visible representation or by any imputation, innuendo or insinuation directly or indirectly, defiles the sacred names concerning God or sacred things, shall be punishable with imprisonment for life and with fine."

STATEMENT OF OBJECTS AND REASONS

In India, secularism has been highlighted in Preamble and the Fundamental Rights in the Constitution of India. Articles 25, 26, 27 and 28 of the Constitution provide religious freedom to all citizens of India and articles 29 and 30 provide cultural and educational rights. However, these provisions do not imply separation of religion and State. Currently, around 25 per cent. of the countries in the world have defined punishments of criminal nature for the offence of blasphemy. In India, blasphemy is punishable under provisions of Indian Penal Code, 1860. Since, India is a secular State, all the religions and even different denominations thereof is protected under the blasphemy law.

Recently, a wave of religious fanaticism has engulfed the entire globe, its magnitude is no less in India, which has been witnessing the same trend. Religious sensitivities, once provoked can immediately lead to conflagration and get uncontrolled. Freedom of expression should not outrage the freedom and sensitivities of others. The proposed Bill implies that sacrilege and blasphemy are socially and culturally unacceptable. It is in time with recent events of intolerance and outrage against diverse religious sentiments.

The Bill aims to maintain peace and tranquillity among the citizens. It, proposes to further criminalise acts of blasphemy committed by way of defiling the holy books and scriptures and sacred names and things concerning God. The Bill is a symbol of cultural and religious affirmation and prohibits incitement of hatred in the name of religion or the actions or offence of speaking sacrilegiously.

Hence, this Bill.

DR. ASHOK BAJPAI

XIV

BILL NO. XXXVIII OF 2022

A Bill to provide for setting up of Sal Leaves Collectors and Traders' Welfare Fund and a Board that shall administer the Fund for the welfare of sal leaves collectors and traders and for matters connected therewith or incidental thereto.

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

Short title,
extent and
commencement.

1. (1) This Act may be called the Sal Leaves Collectors and Traders' Welfare Act, 2022.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

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 the Sal Leaves Collectors and Traders Welfare Board established under section 4;

(c) "Fund" means Sal Leaves Collectors and Traders' Welfare Fund set up under section 3;

(d) "prescribed" means prescribed by rules made under the Act;

(e) "sal leaves collector" means any person who is engaged in the work of collecting Sal leaves, a minor forest produce, twice a year and includes a person engaged on contractual or temporary basis; and

(f) "sal leaves trader" means any person who is engaged in the business of trading or processing sal leaves or products derived out of it and also includes a person transporting Sal leaves' or its products for the purpose of directly selling them in the market.

3. (1) The Central Government shall by notification in the Official Gazette set up a Fund to be known as the Sal Leaves Collectors and Traders' Welfare Fund.

Sal Leaves
Collectors and
Traders'
Welfare Fund.

(2) The Fund shall consist of contributions from Central Government and the State Governments in such ratio as may be prescribed.

4. (1) The Fund shall be administered by a Board to be called the Sal Leaves Collectors Traders Welfare Board, consisting of—

Sal Leaves
Collectors and
Traders
Welfare Board.

(a) a Chairperson to be appointed by the Central Government;

(b) one representative from each State Government where sal leaves collection and trading is a major occupation; and

(c) two representatives of sal leaves collectors and sal leaves traders to be nominated in such manner as may be prescribed.

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

5. (1) The Board shall determine the purposes for which the Fund shall be utilized.

Functions of
the Board.

(2) Notwithstanding anything in sub-section (1), the Fund shall be utilized for the following purposes:—

(i) payment of old-age pension at the rate of rupees five thousand per month after the sal leaves collector or trader has attained the age of sixty years and is incapable of performing his job on account of physical illness, infirmity or incapacity;

(ii) free healthcare facilities for the sal leaves collectors and traders and their dependent family members at the designated Government and other hospitals;

(iii) free insurance cover to sal leaves collectors and traders; and

(iv) free housing facilities for sal leaves collectors and traders.

6. Every sal leaves collector and trader shall be entitled to such assured minimum wage as may be fixed by the appropriate Government, irrespective of the number of leaves collected or traded by him.

Collectors and
Traders' to be
assured
minimum
wage.

7. Any person who does not comply with the provisions of Section 5, shall be punished with a fine which may extend to rupees thirty thousand.

Penalty.

8. The Central Government shall after due appropriation made by Parliament by Law in this behalf, provide adequate funds to the Board for the effective implementation of the provisions of the Act.

Central
Government
to provide
adequate funds.

9. The provisions of this Act shall be addition to and not in derogation of any other law providing for matters dealt with in this Act.

Act to be not
in derogation
of other laws.

Power to
make rules.

10. (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 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

Over 25 million people, mostly from Particularly Vulnerable Tribal Groups (PVTGs), are engaged in collecting and trading Sal leaves and its derivatives like Sal leaves plates which are widely used for, *inter alia*, marriage ceremonies, birth ceremonies, death ceremonies etc.

The conditions of sal leave collectors and traders are worsening day by day. The collectors are mostly tribal women in sal trees dominated States like Odisha. The leaves are stitched into plates and bowls to be sold in the market. There are no provisions as to a minimum wage, housing facilities, health insurance or any sort of medical treatment free of cost. A lot of sal collectors die of diseases or bodily infirmities, which are easily avoidable with basic medical intervention.

With the increasing awareness amongst people of non-usage of plastic and thermocol for plates and bowls sal leaves *thalis* and bowls' demand is bound to increase. In such a scenario, there is a need to incentivize the people engaged in the activity of collecting and trading Sal leaves and its products to keep continuing the task. Also, in old age these sal leaves collectors and traders have no social security or access to any welfare measures which is the need of the hour.

Hence, this Bill.

DR. SASMIT PATRA

FINANCIAL MEMORANDUM

Clause 3 provides for setting up of a Sal Leaves Collectors and Traders' Welfare Fund for welfare of Sal leaves collectors and traders. Clause 4 provides for constitution of a Board for administration of the Sal Leaves Collectors and Traders' Welfare Fund. Clause 8 provides that the Central Government shall provide adequate Fund to the Board for effective implementation of the provisions of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India.

It is estimated that a sum of rupees three hundred crore is likely to be involved out of the Consolidated Fund of India per annum.

A non-recurring expenditure of Rupees two 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 purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

XV

BILL NO. XLVI OF 2022

A Bill to prevent trafficking of persons, especially women and children and to provide care, protection and rehabilitation to the victims of trafficking, to prosecute offenders and to create a legal, economic and social environment for the victims and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Trafficking of Persons (Prevention, Protection and Rehabilitation) Act, 2022.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification appoint; and different dates may be appointed for different States and any reference in any of the provisions 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.

Short title,
extent and
commencement.

Definitions.

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

- (a) "Anti-Trafficking Police Officer" means a police officer referred to in section 9;
- (b) "Anti-Trafficking Unit" means a unit set up in the Districts by the appropriate Government under section 10;
- (c) "appropriate Government" means, in respect of matters relating to,—
 - (i) a Union territory without legislature, the Central Government;
 - (ii) the Union territories with legislature, the Government of the National Capital Territory of Delhi or, as the case may be, the Government of Union territory of Puducherry;
 - (iii) a State, the State Government;
- (d) "Bureau" means the National Anti-Trafficking Bureau established by the Central Government under sub-section (1) of section 3;
- (e) "child" means a person who has not completed the age of eighteen years;
- (f) "Child Welfare Committee" shall have the meaning assigned to it in section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015; 2 of 2016.
- (g) "designated court" means a court designated under section 46;
- (h) "District Anti-Trafficking Committee" means a committee constituted by the appropriate Government under section 13;
- (i) "District Police Nodal Officer" means a police officer referred to in section 8;
- (j) "Magistrate" means a District Magistrate or Additional District Magistrate or a Sub-Divisional Magistrate;
- (k) "narcotic drugs" and "psychotropic substances" shall have the meanings, respectively assigned to them in the Narcotic Drugs and Psychotropic Substances Act, 1985; 61 of 1985.
- (l) "National Anti-Trafficking Relief and Rehabilitation Committee" means a committee established by the Central Government under sub-section (1) of section 11;
- (m) "notification" means a notification published in the Official Gazette and the term notify shall be construed accordingly;
- (n) "premises" means any building, conveyance, land, location, place, structure or any part thereof and includes any source, transit or destination of trafficking;
- (o) "prescribed" means prescribed by rules made by the appropriate Government under this Act;
- (p) "Protection Home" means the Protection Home referred to in sub-section (1) of section 21;
- (q) "rehabilitation" means all measures and processes of physical, psychological and social well-being of a person who is trafficked and includes access to education, skill development, health care including psychological and physiological support, medical services, economic empowerment, legal aid and assistance, safe and secure accommodation;
- (r) "Rehabilitation Fund" means the fund established under sub-section (1) of section 30;
- (s) "Rehabilitation Home" means the Rehabilitation Home, referred to in sub-section (1) of section 22;

(t) "State Nodal Officer" means an officer appointed by the State Government under sub-section (1) of section 6;

(u) "State Anti-Trafficking Committee" means a Committee established by the appropriate Government under sub-section (1) of section 12;

(v) "State Police Nodal Officer" means a police officer appointed by the State Government under sub-section (1) of section 7;

45 of 1860.

(w) "trafficking of person" shall have the meaning assigned to it in sub-section (1) of section 370 of the Indian Penal Code;

(x) "victim" means any person on whom an offence of trafficking has been committed or attempted by any other person or persons:

Provided that for the purpose of receiving compensation or relief under this Act, any dependent or legal heir, as the case may be, of a deceased victim, shall also be construed as a victim.

45 of 1860.
2 of 1974.
21 of 2000.
2 of 2016.

(2) The words and expressions used but not defined in this Act but defined in the Indian Penal Code, the Code of Criminal Procedure, 1973, the Information Technology Act, 2000 and the Juvenile Justice (Care and Protection of Children) Act, 2015 shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

NATIONAL ANTI-TRAFFICKING BUREAU

3. (1) The Central Government shall, by notification, establish a Bureau to be called the National Anti-Trafficking Bureau for exercising the powers and discharging its functions under this Act.

National Anti-Trafficking Bureau.

(2) The Bureau shall have police officers and other officers of such appropriate ranks, as may be necessary, for the discharge of its functions.

(3) The manner of selection, deputation, functioning and reporting of the officers and employees of the Bureau shall be in such as may be prescribed.

4. The Bureau shall perform the following functions in relation to trafficking of persons, namely:—

Functions of Bureau.

(i) co-ordinate and monitor surveillance and preventive efforts along with the known or probable routes;

(ii) facilitate surveillance, enforcement and preventive steps at source, transit and destination points;

(iii) maintain co-ordination between various law enforcement agencies and non-Governmental organisations and other stakeholders;

(iv) strengthen the intelligence apparatus to improve the collection, collation, analysis and dissemination of operational intelligence;

(v) increase international co-operation and co-ordination with concerned authorities in foreign countries and international organisations, in operational and long term intelligence in investigation, mutual legal assistance, to facilitate universal action for prevention and suppression and to implement any obligation under the various international conventions and protocols that are in force in respect of counter measures;

(vi) co-ordinate actions and enforcement by various bodies or authorities established under this Act;

(vii) co-ordinate actions taken by the concerned Ministries, Departments organisations of the Government, especially linking the source of transit to destination and connecting all stakeholders;

(viii) review measures for combating, preventing and formulating co-ordinated strategy of action by various law enforcement agencies;

(ix) make sustained efforts for capacity building and training of agencies;

(x) bring out resource material including education curriculum for children, Panchayat Raj institutions, enforcement agencies, judicial officers and other stakeholders;

(xi) co-ordinate investigating activities among the Districts, States and with other countries in case of cross-border trafficking of persons;

(xii) co-ordinate the investigation, where international ramifications are reported or suspected;

(xiii) co-ordinate investigation, where inter-State ramifications are reported or suspected across two or more States or Union territory Administrations;

(xiv) undertake and facilitate other investigators for investigating offences from the organised crime perspective;

(xv) develop and monitor a database on every crime under this Act;

(xvi) co-ordinate with any national or international investigating or law enforcement agencies and civil society organisations;

(xvii) facilitate inter-State and international transfer of evidence in investigation as well as video conferencing in judicial proceedings;

(xviii) facilitate frequent meetings of the State Police Nodal Officers to facilitate, 20 monitor and evaluate the establishment and functioning of Anti-Trafficking Units;

(xix) provide necessary support for investigation by the Anti- Trafficking Units, where such requests are made;

(xx) undertake steps to enhance the professional skills of Anti-Trafficking Police Officers, Anti-Trafficking Units and all concerned with the investigation and prosecution of cases;

(xxi) facilitate inter-State and trans-border transfer of evidence and materials, witnesses and others for expediting prosecution;

(xxii) protection of witnesses, where referred by any State Government, victims, complainants and affected families, as the case may be;

(xxiii) undertake steps for timely and effective action on post-rescue care and protection of any person who is trafficked, including steps towards rehabilitation by the concerned agencies, so that their rights are ensured, and that they are not re-trafficked;

(xxiv) monitor and facilitate victim and witness protection protocols, rules and procedures including video conferencing during trial of offences which have ramifications across States and beyond borders; and

(xxv) develop minimum standards of care and advice for all concerned, in matters of compliance.

Investigation
by Bureau.

5. (1) The Bureau may take over investigation of any offence under this Act, where referred to it by two or more States.

(2) Where an offence is referred to the Bureau under sub-section (1), the State Government shall not proceed with the investigation of the offence and shall forthwith transmit the relevant documents and records to the Bureau.

(3) For the removal of doubts, it is hereby declared that till the Bureau takes up the investigation of the case, it shall be the duty of the officer-in-charge of the police station to continue the investigation of an offence under this Act.

(4) While investigating any offence under this Act, the Bureau, having regard to the gravity of the offence and other relevant factors, may—

(a) if it is expedient to do so, request the State Government to associate with the investigation; or

(b) with the previous approval of the Central Government, transfer the case to the State Government for investigation and trial of the offence.

(5) While investigating any offence under this Act, the Bureau may also investigate any other offence under any law for the time being in force, which the accused is alleged to have committed, if the offence is connected with such other offence.

(6) The State Government shall extend assistance and co-operation to the Bureau for investigation of an offence under this Act.

(7) Save as otherwise provided in this Act, nothing contained in this Act shall affect the powers of the State Government to investigate and prosecute any offence under this Act or other offences under any other law for the time being in force.

CHAPTER III

STATE ANTI-TRAFFICKING OFFICERS

6. (1) The State Government shall appoint a State Nodal Officer, not below the rank of Director in the State Government. State Nodal Officer.

(2) The State Nodal Officer shall be responsible for follow up action under this Act, as per the directions of the State Anti-Trafficking Committee and co-ordinate with other Government agencies and civil society organizations.

(3) The State Nodal Officer shall provide relief and rehabilitation services through District Anti-Trafficking Unit and other Government agencies as well as civil society organisations.

(4) The State Nodal Officer shall liaison with the State Police Nodal Officer and the National Anti-Trafficking Relief and Rehabilitation Committee, for all matters relating to relief and rehabilitation.

7. (1) The State Government shall appoint a State Police Nodal Officer of such rank as may be specified by that Government. State Police Nodal Officer.

(2) The State Police Nodal Officer shall be responsible for all the activities in the prevention and combating of trafficking of persons in the State and shall also monitor the functioning of Anti-Trafficking Police Officers and Anti-Trafficking Units in the State.

(3) The State Police Nodal Officer shall also co-ordinate and monitor inter-State and trans-border transfer of persons rescued, witnesses, evidence and offenders under this Act.

(4) The State Police Nodal Officer shall liaison with State Nodal Officer and shall perform such other functions as may be prescribed.

8. (1) The State Government shall designate one police officer not below the rank of Superintendent of Police of the District to be the District Police Nodal Officer on matters relating to trafficking of persons and responsible for all the activities in the District concerned and perform such other functions as may be prescribed. District Police Nodal Officer.

(2) The District Police Nodal Officer shall be the convener of the District Anti-Trafficking Committee and shall report to the State Police Nodal Officer in every matter relating to an offence of trafficking of persons including rescue, investigation and inter-State transfer of a person who is trafficked and the offenders.

(3) The District Police Nodal Officer shall monitor the functioning of Anti-Trafficking Unit and provide necessary assistance to them for the effective discharge of their duties.

Anti-Trafficking Police Officers.

9. (1) The State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution.

(2) The State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution.

Anti-Trafficking Unit.

10. (1) The appropriate Government shall set up for each District or a group of Districts, such number of Anti-Trafficking Units, for dealing with all matters of prevention, rescue, protection and care of victims and witnesses and of investigation and prosecution of any offence under this Act.

(2) Every local police station shall, where Anti-Trafficking Unit is not functional, undertake every activity in matters of rescue, investigation, prevention and protection of persons trafficked under this Act.

(3) The State Government shall appoint for every Anti-Trafficking Unit such number of subordinate police officers including women police officers as it deems necessary for the discharge of the functions of the Anti-Trafficking Unit and vest in them with all the powers to investigate any offence committed within its local jurisdiction under this Act:

Provided that the officer-in-charge of a police station after registering the First Information Report under section 154 of the Code of Criminal Procedure, 1973, shall take all necessary steps for immediate rescue and protection and then transfer the case to the Anti-Trafficking Unit.

2 of 1974.

CHAPTER IV

RELIEF AND REHABILITATION AUTHORITIES

National Anti-Trafficking Relief and Rehabilitation Committee.

11. (1) The Central Government shall establish a National Anti-Trafficking Relief and Rehabilitation Committee, by notification for providing relief and rehabilitation services to the victims.

(2) The composition of the National Anti-Trafficking Relief and Rehabilitation Committee shall be as follows, namely:—

(i) Secretary, Ministry of Women and Child Development — Chairperson;

(ii) Representative, Ministry of Home Affairs — Member;

(iii) Representative, Ministry of External Affairs — Member;

(iv) Representative, Ministry of Labour and Employment — Member;

(v) Representative, Ministry of Social Justice and Empowerment — Member;

(vi) Representative, Ministry of Panchayati Raj — Member;

(vii) Representative, Ministry of Health and Family Welfare — Member;

(viii) Representative, Legislative Department — Member;

(ix) Four representatives from registered civil society organisations active in the prevention, rescue and rehabilitation of victims — Members;

(x) such other representatives of the Ministries or Departments or experts representing different States, as may be prescribed — Members; and

(xi) Head, National Anti-Trafficking Bureau — Member Secretary.

(3) The National Anti-Trafficking Relief and Rehabilitation Committee shall perform the following functions, namely:—

(i) facilitate and ensure rehabilitation and relief services including compensation, repatriation, re-integration to the victims through concerned 45 Ministries, Departments and statutory bodies;

(ii) provide for Protection Homes and Rehabilitation Homes to enable the immediate and long term sustainable rehabilitation of victims;

(iii) ensure the effective co-ordination between the concerned authorities both within the country as well as with other countries for the repatriation of victims;

(iv) seek reports from appropriate Government, State Anti-Trafficking Committee, District Anti-Trafficking Committee, on the quality of services and the functioning of the Protection Homes and Rehabilitation Homes;

(v) maintain and monitor the Rehabilitation Fund established under section 30; and

(vi) perform such other functions as may be prescribed.

12. (1) The appropriate Government shall establish a State Anti -Trafficking Committee to oversee the implementation of this Act and advise the State Government and District Anti-Trafficking Committees on matters relating to prevention of trafficking, protection, repatriation and rehabilitation of victims.

State Anti-Trafficking Committee.

(2) The State Anti-Trafficking Committee shall consist of the following, namely:—

(i) Chief Secretary — Chairperson;

(ii) Director General of Police — Member;

(iii) Secretary, Department of Women and Child — Member;

(iv) Secretary, Home Department — Member;

(v) Secretary, Labour Department — Member;

(vi) Secretary, Health Department — Member;

(vii) Secretary, State Legal Services Authority — Member;

(viii) Secretary, Law Department — Member;

(ix) Protector of Emigrants, Ministry of External Affairs — Member;

(x) State Police Nodal Officer — Member;

(xi) Two social workers out of which one shall be a woman — Member;

(xii) such other persons as may be prescribed — Members; and

(xiii) State Nodal Officer — Member Secretary.

(3) The State Anti-Trafficking Committee shall perform the following functions, namely:—

(i) identify the roles and responsibilities of each Department at State or District level for effective implementation of the Act and the rules made thereunder;

(ii) arrange for appropriate training and sensitisation of functionaries of all personnel including Governmental and non-Governmental;

(iii) develop effective networking and linkages with local non-Governmental organisations for specialised services and technical assistance like vocational training, education, healthcare, nutrition, mental health intervention, drug de-addiction and legal aid services;

(iv) review and monitor the functioning of the District Anti-Trafficking Committee;

(v) make necessary funds available to the District Anti-Trafficking Committee for providing or setting up of required facilities for the implementation of the Act; and

(vi) perform such other functions and duties as may be prescribed.

(4) The State Anti-Trafficking Committee shall co-ordinate with Bureau and National Anti-Trafficking Relief and Rehabilitation Committee to provide all necessary assistance and inputs as may be required to prevent offences of trafficking of persons especially, those that have inter-State and international ramifications and have features of an organised crime.

District Anti-Trafficking Committee.

13. (1) The appropriate Government shall, by notification, constitute for every District, a District Anti-Trafficking Committee for exercising the powers and performing such functions and duties in relation to prevention, rescue, protection, medical care, psychological assistance and need-based rehabilitation of victims.

(2) The District Anti-Trafficking Committee shall consist of the following, namely:—

(i) District Magistrate or Additional District Magistrate — Chairperson;

(ii) District Officer for Women and Child Development — Member;

(iii) Representative, District Legal Services Authority — Member;

(iv) Representative, Child Welfare Committee — Member;

(v) Two Civil Society Organisations or Non-Governmental Organisations working in the field of prevention of trafficking and related issues — Members;

(vi) such other members as may be prescribed — Members; and

(vii) District Police Nodal Officer — Member Secretary.

(3) The District Anti-Trafficking Committee shall perform the following functions, namely:—

(i) direct and facilitate the person in-charge of the Protection Home or Rehabilitation Home, as the case may be, to submit an individual care plan to it;

(ii) ensure care, protection, appropriate rehabilitation or restoration of all victims, based on each victims' individual care plan by passing necessary directions to Protection Homes and Rehabilitation Homes;

(iii) co-ordinate with other State Departments and Panchayati Raj institutions, to keep a check on the children who drop out from schools and those children who are covered by various schemes and have stopped accessing the benefits of those schemes and inform such cases to the State Anti-Trafficking Committee and take appropriate actions;

(iv) facilitate in a time bound manner or in the manner as may be prescribed, the inter-State repatriation of victims or persons subjected to bonded labour;

(v) facilitate survey of the areas and vulnerable population to identify source, transit and destination areas of trafficking of persons and based on the information received, draw up an action plan for the prevention and protection of people who are vulnerable to trafficking and implementation of the action plan;

(vi) create programmes for awareness generation, community mobilisation and empowerment of vulnerable social groups against trafficking of persons;

(vii) assist the Anti-Trafficking Police Officer, the Anti-Trafficking Unit or the local police, as the case may be, in conducting rescue operation, transferring victims to the nearest Protection Home, in connection with prevention of trafficking of persons, protection of victims and their rehabilitation, etc.; and

(viii) such other functions as may be prescribed.

(4) The appropriate Government shall provide adequate resources to the District Anti-Trafficking Committee for carrying out prevention, protection and rescue procedures.

(5) The District Anti-Trafficking Committee shall furnish a report to the State Anti-Trafficking Committee on quarterly basis.

14. The District Anti-Trafficking Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the victims under this Act and in case of child victim, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

Powers of District Anti-Trafficking Committee.

2 of 2016.

CHAPTER V

SEARCH, RESCUE AND POST-RESCUE ACTIVITIES

15. The provisions of the Code of Criminal Procedure, 1973 shall *mutatis mutandis* apply in relation to a search and seizure in respect of an offence under this Act.

Search and seizure.

2 of 1974.

16. (1) Where a police officer or Anti-Trafficking Police Officer or Anti-Trafficking Unit has reason to believe that it is necessary to rescue a person without undue delay due to the imminent danger that may cause to his life and person, he or it may remove such person from any place or premises and produce him before the Magistrate or Child Welfare Committee, as the case may be, and shall take all necessary steps for the medical examination of such person for the purposes of determination as to the age, the assessment or detection of trauma, injury or illnesses incidental thereto.

Rescue and medical examination of persons.

(2) The provisions of section 164A of the Code of Criminal Procedure, 1973 and section 27 of the Protection of Children from Sexual Offences Act, 2012 shall *mutatis mutandis* apply in relation to a medical examination of any person under this section.

2 of 1974.
32 of 2012.

(3) The Anti-Trafficking Police Officer or Anti-Trafficking Unit or the Police Officer, as the case may be, shall inform the District Anti-Trafficking Committee about the rescue conducted under this section and the said Committee shall take appropriate actions for providing interim relief and further rehabilitation services to the person rescued.

17. (1) The District Anti-Trafficking Committee shall assist the Anti-Trafficking Police Officer or the Anti-Trafficking Unit or any police officer, as the case may be, in rescue operation and transferring any person to the nearest Protection Home or any other suitable institution, as deemed fit.

Safety, care and protection of person rescued.

(2) The Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall produce the person rescued before the Magistrate or the Child Welfare Committee, as the case may be, without any delay but within twenty-four hours of the rescue.

(3) The Magistrate may, after making an inquiry as to the age of the person rescued and if it is found that the person is a child, pass such orders as he deems necessary for the care and protection of the person.

(4) Where the Magistrate is satisfied, after making an inquiry as to the age of the victim and it is found that the victim is not a child, the Magistrate may, make an order that the victim be placed, for such reasonable period, in a Rehabilitation Home:

Provided that, if the victim or any person rescued is not a child and he voluntarily makes an application supported by an affidavit for his release and if the Magistrate is of the opinion that such application has not been made voluntarily, the Magistrate may reject such application after recording his reasons in writing.

(5) In discharging the functions under this section, a Magistrate may summon a mental healthcare professional, or psycho social counsellor, or clinical psychologist, or psychotherapist, as the case may be, to assist him and may, for this purpose, in consultation with the District Anti-Trafficking Committee and District Legal Services Authority, maintain a list of experienced social workers.

Investigation
and evidence.

18. (1) The Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall ensure that investigation including search and seizure must be conducted in accordance with the provisions of the Code of Criminal Procedure, 1973, and any other law for the time being in force.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Anti-Trafficking Police Officer or the officer-in-charge of the police station, as the case may be, shall forward the report on completion of investigation to the court having jurisdiction within ninety days from the date of registration of first information report. 2 of 1974.

(3) The investigating officer, while forwarding the report on completion of investigation of an offence under this Act, punishable with imprisonment of more than two years, has reason to believe that any amount suspected to have been obtained by the accused by way of commission of the offence and held by him in any bank account, the investigating officer may submit an application before the designated court for freezing of such amount.

(4) The designated court, on satisfaction, after an inquiry made in this behalf, may freeze such amount in any such bank account and may, upon conviction, order that such amount lying in such bank account, shall be remitted to the Rehabilitation Fund.

Presumption
as to offences.

19. Where a person is prosecuted for committing or abetting or attempting to commit any offence under this Act in respect of a child or a woman or a person suffering from physical or mental disability, unless it is specified, the designated court shall presume that such person has committed or abetted or attempted to commit the offence, as the case may be, unless the contrary is proved.

CHAPTER VI

PREVENTIVE MEASURES

Preventive
measures by
State and
District Anti-
Trafficking
Committees.

20. (1) The State and the District Anti-Trafficking Committees shall undertake all measures and recommend strategies and plans to protect and prevent vulnerable persons from being trafficked.

(2) The measures referred to in sub-section (1) shall include—

(i) co-ordinating the implementation of all the programmes, schemes and plans relating to the prevention of trafficking of persons with any statutory bodies, organisations or agencies as well as Panchayati Raj Institutions;

(ii) facilitating the implementation of livelihood and educational programmes for vulnerable communities;

(iii) facilitating the implementation of programmes and schemes sponsored by various Ministries and Departments of the appropriate Government;

(iv) co-ordinating with corporate sector to implement various schemes, programmes for the prevention of trafficking of persons;

(v) ensuring accountability of the concerned agencies, by regular review and appropriate action;

(vi) developing appropriate law and order framework to ensure prevention of trafficking of persons;

(vii) undertaking vulnerability mapping of the State and give focus and attention to the challenging areas;

(viii) commissioning independent research on various aspects of trafficking and ensure follow up action;

(ix) organising interface between law enforcement agencies, other Government Departments and agencies with the voluntary organisations or non-Governmental organisations in matters of prevention of trafficking of persons;

(x) preparing an annual report on trafficking of persons in the State;

(xi) co-ordinating with the Bureau and other State Anti-Trafficking Committees, especially with those States where source-transit-destination linkages exist, and undertake all activities for joint action programmes by bringing in common policies and programmes; and

(xii) linking with the Bureau and the Central Government and other concerned agencies, in case of trans-border trafficking of persons and ensure appropriate action.

CHAPTER VII

PROTECTION AND REHABILITATION OF VICTIMS

21. (1) The appropriate Government shall maintain either directly or through voluntary organisations or non-Governmental organisations as many Protection Homes as necessary and to be managed in the manner, as may be prescribed for the immediate care and protection of the victims or any person rescued.

Protection
Homes.

(2) The Protection Homes shall provide for shelter, food, clothing, counselling and medical care that is necessary for the victims or any person rescued and such other services in the manner, as may be prescribed.

22. (1) The appropriate Government, as it deems fit, shall maintain either directly or through voluntary organisations or non-Governmental organisations, one or more Rehabilitation Homes in each District managed in the manner as may be prescribed for the purpose of providing long-term rehabilitation of victims or any person rescued.

Rehabilitation
Homes.

(2) The appropriate Government may also utilise any existing shelter home for the purposes of rehabilitation under sub-section (1).

23. (1) Notwithstanding anything contained in any other law for the time being in force, a Protection Home and Rehabilitation Home shall be registered under this Act in such manner as may be prescribed by the appropriate Government.

Registration.

(2) If any person in-charge of Protection Home and Rehabilitation Home providing shelter and rehabilitation to victims or any person rescued contravenes any of the provisions of sub-section (1), he shall be punished with imprisonment which may extend to one year or with fine which shall not be less than one lakh rupees, or with both.

24. (1) A victim or any person rescued on behalf of him may make an application to the Magistrate within the local limits of whose jurisdiction the victim or such other person is trafficked or suspected to be trafficked for an order that he may be kept in a protection:

Application
for providing
care and
protection.

Provided that in case the victim or any person rescued is a child, the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

2 of 2016.

(2) The Magistrate may, pending inquiry under sub-section (3) or sub-section (4) of section 17 having regard to the circumstances of the case direct that the victim or any person rescued to be kept in such care and protection as he may consider proper.

(3) The Magistrate shall consult the District Anti-Trafficking Committee before taking a final decision with respect to the rehabilitation of the victim or such other person.

Rehabilitation
not to be
contingent on
criminal
proceedings.

25. Where the person rescued is a victim, the District Anti-Trafficking Committee shall ensure that the rehabilitation of the person is not contingent upon criminal proceedings being initiated against the accused or the outcome thereof.

CHAPTER VIII

REPATRIATION

Repatriation
of victims.

26. (1) The District Anti-Trafficking Committee or the Child Welfare Committee, as the case may be, shall be responsible for the repatriation of victims by co-ordinating with their counterparts in any other District.

(2) Where the State Anti-Trafficking Committee is of the opinion that a victim from a foreign country needs to be repatriated to the country of origin, it may deal with the matter under any law for the time being in force.

(3) The State Nodal Officer shall obtain informed written consent from the victim for repatriation purposes, and where needed, shall make arrangements for the counselling of the victim by trained psycho-social professionals.

(4) The repatriation of the victims shall be completed within three months for inter-State repatriation, and within six months in case of cross border repatriation, from the date of rescue by the District Anti-Trafficking Committee, or the Child Welfare Committee, or State Police Nodal Officer, as the case may be:

Provided that any delay in repatriation shall be recorded for reasons in writing and shall be reported to the National Anti-Trafficking Relief and Rehabilitation Committee and the Bureau forthwith.

CHAPTER IX

MONETARY RELIEF AND COMPENSATION

Interim relief.

27. (1) Upon application for interim relief by the victim, the District Anti-Trafficking Committee or Child Welfare Committee, as the case may be, shall take immediate steps to award interim relief to the victim as deemed appropriate not later than thirty days, taking into consideration all aspects, including physical, mental trauma and the other requirements of the victim.

(2) The appropriate Government shall provide adequate funds at the disposal of the District Anti-Trafficking Committee for the purposes under sub-section (1), within a period of one month from the date of commencement of this Act.

Relief.

28. (1) The District Anti-Trafficking Committee shall take steps to ensure that appropriate relief is provided to the victim, within sixty days from the date of filing of charge-sheet.

(2) The relief amount shall be in addition to any other compensation including any amount or benefit payable by way of any scheme of the appropriate Government or pursuant to any order of the court under any law for the time being in force.

CHAPTER X

FORFEITURE AND ATTACHMENT OF PROPERTY

Forfeiture and
attachment of
property.

29. (1) Where any property is, or is likely to be, used for the commission of an offence under this Act and the property is concealed, transferred or dealt with, in any manner which may result in frustrating any proceedings under this Act, the designated court may attach such property:

Provided that the designated court shall give an opportunity to be heard to the person who is the owner or occupier of the property.

(2) Where a person has been convicted of any offence under this Act, the designated court shall, in addition to awarding any punishment, declare that any property, movable or immovable or both, belonging to such person or held by any person on his behalf, which has been used for the commission of that offence or accrued thereby, or which has been attached under sub-section (1), shall stand forfeited to the appropriate Government and the same may be authorised for the purpose of realisation of any fine imposed by the designated court and the proceeds shall be remitted to the Rehabilitation Fund.

CHAPTER XI

REHABILITATION FUND

30. (1) There shall be constituted a fund by the Central Government to be called the Rehabilitation Fund for the welfare and rehabilitation of the victims under this Act and there shall be credited thereto—

Rehabilitation
Fund.

(a) any grants and loans made by the appropriate Government;

(b) any voluntary donations, contributions or subscriptions, whether or not for any specific purpose as may be decided upon by the Central Government;

(c) any fine recovered for the commission of an offence under this Act which may include recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973;

(d) the amount seized from any bank account frozen under sub-section (4) of section 18; and

(e) any other sums as may be received.

(2) The State Government may supplement the Rehabilitation Fund.

(3) The Rehabilitation Fund shall be utilised under this Act by the appropriate Government for —

(i) the establishment and administration of Protection Homes and Rehabilitation Homes;

(ii) supporting innovative programmes for the welfare and rehabilitation of the victims;

(iii) strengthening legal assistance and support;

(iv) providing entrepreneurial support, skill development training or vocational training;

(v) providing aftercare facilities for capital and infrastructure to the victims who are ready to integrate into mainstream society by setting up small business or profession;

(vi) providing victim and witness protection;

(vii) awareness generation programmes for the prevention of trafficking of persons;

(viii) creating community-based programmes to identify, report and prevent trafficking of persons;

(ix) providing specialised professional services, counsellors, translators, interpreters, social workers, mental health care professionals, vocational trainers or such other specialised professionals for the victims; and

(x) any other activity which may be required for effective implementation of this Act.

(4) The Rehabilitation Fund shall be maintained and monitored by the National Anti-Trafficking Relief and Rehabilitation Committee.

(5) The Rehabilitation Fund shall be made available to the State and District Anti-Trafficking Committees towards prevention, protection and prosecution of matters relating to trafficking of persons.

(6) Any fine recovered for the commission of an offence under this Act shall also be remitted to the Rehabilitation Fund which includes recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973.

2 of 1974.

(7) The generation, dissemination and utilisation of Fund shall be regulated in the manner as may be prescribed by the Central Government.

CHAPTER XII

OFFENCES AND PENALTIES

Aggravated
form of
trafficking of
persons.

31. Notwithstanding anything contained in any other law for the time being in force, whoever commits an offence of trafficking of person—

(i) for the purpose of forced labour or bonded labour by using violence, intimidation, inducement, promise of payment of money, deception or coercion or by subtle means including, allegations of accumulated debt by the person, retention of any identity paper, threats of denunciation to authorities; or

(ii) for the purpose of bearing child, either naturally or through assisted reproductive techniques; or

(iii) by administering any narcotic drug or psychotropic substance or alcohol on a person for the purpose of trafficking or forcing him to remain in exploitative condition; or

(iv) by administering any chemical substance or hormones on a person for the purpose of early sexual maturity; or

(v) for the purpose of marriage or under the pretext of marriage trafficks a woman or child after marriage; or

(vi) by causing serious injury resulting in grievous hurt or death of any person, including death as a result of suicide as a consequence of trafficking of person; or

(vii) who is a pregnant woman or the offence results in pregnancy of the person; or

(viii) by causing or exposing the person to a life-threatening illness including acquired immuno deficiency syndrome or human immuno deficiency virus; or

(ix) for the purpose of begging; or

(x) who is a mentally ill person as defined in clause (l) of section 2 of the Mental Health Act, 1987 or a person with disability as defined in clause (s) of section 2 of the Rights of Persons with Disabilities Act, 2016, or as a consequence of trafficking, the person becomes mentally ill or disabled; or

14 of 1987.

49 of 2016.

(xi) by encouraging or abetting any person to migrate illegally into India or Indians in to some other country,

is said to commit an offence of aggravated form of trafficking of the person.

Punishment
for aggravated
form of
trafficking of
persons.

32. Whoever commits the offence of aggravated form of trafficking of a person 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 and shall also be liable to fine which shall not be less than one lakh rupees.

33. Whoever is convicted of the offence of trafficking on more than one occasion shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine which shall not be less than two lakh rupees.

Trafficking of persons on more than one occasion.

34. (1) Whoever keeps or manages, or acts or assists in the keeping or management of a premises to be used as a place for trafficking of any person shall be punished with rigorous imprisonment for a term which may extend to five years and also with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with rigorous imprisonment for a term which shall not be less than seven years and with fine which may extend to two lakh rupees.

Punishment for keeping or allowing premises to be used as place for trafficking of persons.

(2) Whoever—

(i) being a tenant, lessee, occupier or person in-charge of any premises, uses, or knowingly allows any other person to use, the premises or any part thereof as a place for trafficking of persons; or

(ii) being the owner, lessor or landlord of any premises, or the agent of such owner, lessor, or landlord, lets out the same, or any part thereof with the knowledge that the same or any part thereof is intended to be used as a place of exploitation of the victim, or is wilfully a party to the use of the premises or any part thereof as a place for trafficking of persons,

shall be punished on first conviction with imprisonment for a term which may extend to three years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and with fine which may extend to two lakh rupees.

Explanation.—For the purposes of sub-section (2), it shall be presumed until the contrary is proved that any person referred to in clause (i) or clause (ii) of that sub-section has not exercised due diligence in allowing to use or letting out the premises or in allowing the premises or any part thereof to be used as a place of exploitation or, as the case may be, and has knowledge that the premises or any part thereof was being used as a place of exploitation of the victim.

(3) Notwithstanding anything contained in any other law for the time being in force, on conviction of any person referred to in clause (i) or clause (ii) of sub-section (2) of any offence under this Act in respect of any premises or any part thereof, any lease or agreement under which such premises have been leased out or held or occupied at the time of the commission of the offence, shall become void with effect from the date of the said conviction.

35. (1) Notwithstanding anything contained in any other law for the time being in force, the Magistrate shall, on receipt of information from the police or otherwise, that any premises or any part thereof is being used for the purpose of trafficking of persons, issue notice to the owner, lessor or landlord of the premises or part thereof, or the agent of the owner, lessor or landlord, or on the tenant, lessee, occupier of, or any other person in charge of such premises or part thereof, to show cause within seven days of the receipt of the notice why the same should not be sealed or attached for improper use thereof; and, after hearing the person concerned, if the Magistrate is satisfied that the premises or part thereof is being used for trafficking of persons, then, the Magistrate may pass an order—

Closure of premises and eviction of offenders from premises.

(i) directing eviction of the occupier or any person from the premises, within seven days of the passing of the order;

(ii) directing that the owner, lessor, or landlord, or the agent of the owner, before letting out the premises or any part thereof, which, during the rescue or search has been found to be used for the purpose of trafficking, shall obtain the previous permission of the Magistrate and the Magistrate shall pass appropriate orders within thirty days

from the date of order and where no permission is granted within such period, the permission shall be deemed to have been granted.

(2) If the Magistrate, after the notice issued under sub-section (1), finds that the premises or any part thereof was used for trafficking of any person, the owner, lessor, landlord the agent of the owner, lessor, landlord exercised due diligence in letting out premises or any part thereof, then, the same shall be restored to the owner, lessor or landlord, or the agent of the owner or lessor or landlord as the case may be, with an undertaking that the premises or any part thereof shall not be leased out, or otherwise given possession of, or for the benefit of the person who was allowing the improper use therein, within two months from the date of issuing the notice by the Magistrate.

(3) If the Magistrate is satisfied that the premises or part thereof was not used for trafficking of any person, he shall cause the same to be restored to the owner, lessor or landlord, or the agent of the owner, lessor, landlord, tenant, lessee, occupier or any other person in-charge of the premises or part thereof within two months of the issuance of the notice.

(4) When an owner, lessor or landlord, or the agent of the owner, lessor or landlord fails to comply with a direction given under clause (ii) of sub-section (1), he shall be punished with fine which may extend to one lakh rupees.

Punishment
for promoting
or facilitating
trafficking of
person.

36. (1) A person is said to promote, procure or facilitate the commission of trafficking of person, if that person—

(i) produces, prints, issues or distributes unissued, tampered or fake certificates, registration or stickers as proof of compliance with Government requirements; or

(ii) advertises, publishes, prints, broadcasts or distributes, or causes the advertisement, publication, printing or broadcast or distribution by any means, including the use of information technology or any brochure, flyer or any propaganda material that promotes trafficking of person or exploitation of a trafficked person in any manner; or

(iii) assists in the conduct of misrepresentation or fraud for the purposes of procuring or facilitating the acquisition of clearances and necessary documents from Government agencies for the purpose of trafficking of any person.

(2) Whoever commits an offence under sub-section (1) shall be punished with rigorous imprisonment 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 which shall not be less than one lakh rupees.

Punishment
for abetment.

37. Whoever abets any person to commit any offence under this Act and if the act abetted is in consequence of the abetment, shall be punished with the punishment provided for that offence.

Punishment
for omission
of duty.

38. Notwithstanding anything contained in any other law for the time being in force, whoever knowingly or having reason to believe that a person has been trafficked, fails to perform a duty, which he is entrusted under this Act for providing care, protection and rehabilitation to a victim or performs duty but knowingly causes physical or mental injury or hardship or trauma to the victim shall be punished with fine which shall not be less than fifty thousand rupees and in the event of a second or subsequent offence with rigorous imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees.

Buying or
selling of any
person.

39. (1) Whoever buys or sells any person for a consideration, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years, and shall also be liable to fine which shall not be less than one lakh rupees.

(2) Whoever solicits or publicises electronically, taking or distributing obscene photographs or videos or providing materials or soliciting or guiding tourists or using

agents or any other form which may lead to the trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than five years but may extend to ten years, and shall also be liable to fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees.

40. Whoever hires or otherwise obtains possession, or lets to hire, or in any manner disposes of a person, for the purpose of trafficking of person, shall be punished with imprisonment of either description for a term which shall not be less than three years but may extend to five years and shall also be liable to fine which shall not be less than one lakh rupees.

Hiring or obtaining possession, etc. for trafficking of person.

41. (1) Whoever commits trafficking of a person with the aid of media, including, but not limited to print, internet, digital or electronic media, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years and shall also be liable to fine which shall not be less than one lakh rupees.

Offences related to media.

(2) Whoever distributes, or sells or stores, in any form in any electronic or printed form showing incidence of sexual exploitation, sexual assault, or rape for the purpose of extortion or for coercion of the victim or his family members, or for unlawful gain shall be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to seven years and shall also be liable to fine which shall not be less than one lakh rupees.

42. (1) No report or newspaper or magazine or news-sheet or audio-visual media or any other form of communication regarding any inquiry or investigation or judicial proceedings at any stage shall disclose the name, address or any other particulars, which lead to the identification of a victim or witness of trafficking of person under this Act shall be published:

Punishment for disclosure of identity.

Provided that for reasons to be recorded in writing, the designated court may permit such disclosure, if in its opinion, such disclosure is in the best interest of the victim.

(2) Any person who contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees, or with both:

Provided that in case, the victim is a child, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

2 of 2016.

43. (1) Where an act or omission constitutes an offence punishable under this Act and also under any other law for the time being in force, then, notwithstanding anything contained in any such law, the person found guilty of such offence, shall be liable to punishment under such law which provides for punishment which is greater in degree.

Applicability of punishment.

(2) A designated court convicting a person of any offence under this Act may also pass an order for the auction of the premises or any part thereof and the proceeds of such auction shall be ordered to be remitted to the Rehabilitation Fund.

(3) When an occupier or any other person fails to comply with a direction given under clause (i) of sub-section (1) of section 35, he shall be deemed to have committed an offence under section 34 and shall be punished accordingly.

44. Whoever attempts to commit an offence punishable by this Act with imprisonment or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.

Punishment for attempt to commit offence under this Act.

Act committed by victim under coercion, compulsion, etc.

45. Nothing is an offence which is committed or attempted to have been committed by a victim, punishable with death or imprisonment for life or for imprisonment for ten years, if the offence is committed or attempted to have been committed, under coercion or compulsion or intimidation or threat or undue influence by any person and where, at the time of committing the offence, the victim is subjected to reasonable apprehension of his death, grievous hurt or any other injury to him or to any other person whom he is interested in.

CHAPTER XIII

DESIGNATED COURTS

Designated courts.

46. For the purposes of providing speedy trial of any offence under this Act, the State Government shall, in consultation with the Chief Justice of the High Court, by notification, within two months from the date of commencement of this Act, designate in each district, the court of session as a Designated Court.

Special Public Prosecutors.

47. (1) The appropriate Government may, by notification, appoint Special Public Prosecutors for every designated court for conducting cases under this Act.

(2) Every person appointed as a Special Public Prosecutor under sub-section (1) shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 and provisions of that Code shall have effect accordingly.

2 of 1974.

(3) Subject to the provisions contained in section 301 of the Code of Criminal Procedure, 1973, the victim shall be entitled to the assistance of a legal counsel of his choice for any offence under this Act:

2 of 1974.

Provided that if the victim is unable to afford a legal counsel, the Legal Services Authority shall provide a counsel to him.

Period and manner for recording of evidence of person who is trafficked and disposal of cases.

48. (1) The designated court shall complete the trial, as far as possible, within a period of one year from the date of taking into cognizance of any offence under this Act.

(2) The designated court may record the statement of any victim through video conferencing in any case, where the victim is unable to appear before the court for the reasons of safety or confidentiality.

(3) In all matters of trans-border and inter-State crimes where the victim has been repatriated to any other State or country is unable to attend the court proceedings, the court may order video conferencing to record his statement.

(4) Notwithstanding anything contained in this Act, the inquiry and trial of offences under this Act, may be conducted in camera, if an application is made in this regard by the victim.

Payment to the victim.

49. (1) The designated court may order, where applicable, any backwages of the victim to be paid to him.

(2) The designated court shall on its own motion or on an application filed by or on behalf of the victim, award compensation under section 357A of the Code of Criminal Procedure, 1973, or under any other law for the time being in force or otherwise at any stage of the proceedings.

2 of 1974.

(3) The appropriate Government shall ensure that the relief ordered by the designated court is paid within sixty days from the date of receipt of the order.

Appeal.

50. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of the designated court to the High Court.

2 of 1974.

(2) Every appeal under this section shall be preferred within a period of sixty days from the date of judgment, sentence or order appealed against:

Provided that the High Court may entertain an appeal after the expiry of the said period if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

CHAPTER XIV

PROTECTION OF VICTIM, WITNESS AND COMPLAINANT

51. (1) The designated court, if on an application made by a victim, witness or a complainant in any proceeding before it or by the Special Public Prosecutor in relation to such victim, witness or a complainant or on its own motion, is satisfied that the life of such victim, witness or a complainant is in danger, it may, for reasons to be recorded in writing, take such measures to protect such victim, witness and the complainant.

Protection of victim, witness and complainant.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the measures which a designated court may take under that sub-section may include—

- (a) the holding of the proceedings at a place to be decided by the designated court;
- (b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public;
- (c) the issuing of any directions for securing that the identity and address of the witnesses are not disclosed; and
- (d) a decision that it is in the public interest to order that all or any of the proceedings pending before such a court shall not be published in any manner.

Period and manner for recording of evidence of person who is trafficked and disposal of cases.

CHAPTER XV

MISCELLANEOUS

52. (1) All offences under this Act shall be cognizable and non-bailable.

Cognizance of offences.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973—

(a) nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act with imprisonment of more than two years;

(b) no person accused of committing an offence under this Act shall be released on bail or on his own bond unless—

(i) the Special Public Prosecutor has been given an opportunity to oppose the application for such release;

(ii) where the Special Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail; and

(c) the victim shall have a right to be heard in all bail matters.

(3) The conditions for granting of bail specified in clause (b) of sub-section (2) shall be in addition to the conditions provided under the Code of Criminal Procedure, 1973.

53. No suit, prosecution, or other legal proceeding shall lie against the Central Government or the State Government or any person acting under the directions of the Central Government or the State Government as the case may be, acting in good faith, or intended to be done in pursuance of this Act, or of any rules made thereunder.

Protection of action taken in good faith.

Power of
Central
Government
to make rules.

54. (1) The Central Government may, by notification, 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 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.

Power of State
Government
to make rules.

55. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) 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 State Legislature consists of one House, before that House.

Power to
remove
difficulty.

56. (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 may appear to it to be necessary or expedient for removal of the difficulty:

Provided, that no such order shall be made under this section after the expiry of the period of two years from the date of 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.

Section 360 of
the Code of
Criminal
Procedure,
1973 and the
provisions of
the Probation
of Offenders
Act, 1958 not
to apply.

57. The provisions of section 360 of the Code of Criminal Procedure, 1973 and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person who is found guilty of having committed an offence under this Act.

2 of 1974.
20 of 1958.

Sections 193,
195, 199 and
203 of Indian
Penal Code to
apply.

58. The provisions of section 193, 195, 199 and 203 of the Indian Penal Code shall apply to any person who is guilty of having committed an offence under this Act.

45 of 1860.

Act not in
derogation of
any other law.

59. The provisions of this Act, shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

STATEMENT OF OBJECTS AND REASONS

Trafficking in human beings is one of the largest organised crime violating basic human rights. Trafficking in human beings may be for sexual and physical exploitation and also for other forms of exploitation like forced labour, etc. This is primarily fueled by poverty, illiteracy and lack of livelihood options. Majority of the Trafficking is within the country. However, there are instances where large number of persons are trafficked from neighboring countries and to other countries especially Middle East.

2. Presently, the subject matter of trafficking of persons is dealt with under the provisions of the Indian Penal Code, 1860 and the Immoral Traffic (Prevention) Act, 1956. Section 370 of Indian Penal Code, 1860 only defines and penalises the offence of trafficking of persons and, whereas, the provisions of the Immoral Traffic (Prevention) Act, 1956 deals with trafficking of persons for the purpose of commercial sexual exploitation and it does not recognise trafficking of persons for the purpose of physical and other forms of exploitation.

3. Keeping in view of the above deficiencies in the existing legislations and after considering the issues relating to prevention, rescue and rehabilitation of victims of trafficking, it has been considered necessary to bring a comprehensive legislation, namely, the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2019 covering all related aspects of trafficking of persons.

4. The salient features of the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 21, *inter alia*, are as follows:—

(a) it aims to prevent the trafficking of persons, to prosecute offenders and to provide care, protection and rehabilitation to the victims of trafficking;

(b) it creates a conducive legal, economic and social environment for the victims of trafficking and also addresses the transnational nature of the crimes;

(c) provides for dedicated institutional mechanism at District, State and National level for prevention, protection, investigation and rehabilitation aspects relating to trafficking;

(d) it provides for new offences with stringent punishment and fine, which are aggravated in nature and not addressed in existing laws;

(e) it provides for timely disposal of cases and repatriation of the victims;

(f) it provides for the confidentiality of victims, witnesses and complainants by not disclosing their identity. The confidentiality of the victims is maintained by recording their statement through video conferencing and by in camera proceedings;

(g) it also provides for Rehabilitation Fund for the welfare and rehabilitation of victims to ensure timely relief to the victims and also addresses their physical, mental trauma etc.;

(h) in order to break the organised nexus, both at national and international level, the Bill proposes for attachment and forfeiture of property and to remit the proceeds of crime in the Rehabilitation Fund;

(i) it also provides for immunity to victims for certain criminal actions against them; and

(j) it is also proposed to designate a Sessions Court in each district for speedy disposal of the cases under the proposed legislation and for this purposes provides for appointment of Special Public Prosecutors to deal with such cases in a time bound manner.

5. The Bill seeks to achieve the above objectives.

DR. SASMIT PATRA

Notes on clauses

Clause 2 of the Bill defines various expressions used in the Bill and provides that words and expressions used but not defined in the proposed Bill and defined in the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, the Information Technology Act, 2000 and the Juvenile Justice (Care and Protection of Children) Act, 2015, shall have the meanings respectively assigned to them in those Acts.

Clause 3 of the Bill seeks to provide for the establishment of the National Anti-Trafficking Bureau by the Central Government, by notification, having police officers and other officers of such appropriate ranks as may be necessary for the discharge of its functions. Sub-clause (3) further provides that the manner of selection, deputation, functioning and reporting of the officers and employees of the Bureau, shall be in the manner as may be prescribed.

Clause 4 of the Bill seeks to provide for the functions of the Bureau including the function to co-ordinate and monitor surveillance and preventive efforts alongwith the known or probable routes; facilitate surveillance, enforcement and preventive steps at source, transit and destination points; maintain co-ordination between various law enforcement agencies and non-Governmental organisations and other stakeholders; strengthen the intelligence apparatus to improve the collection, collation, analysis and dissemination of operational intelligence; increase international co-operation and co-ordination with concerned authorities in foreign countries and international organisations, in operational and long-term intelligence in investigation, mutual legal assistance, to facilitate universal action for prevention and suppression and to implement any obligation under various international conventions and protocols that are in force in respect of counter measures; co-ordinate actions and enforcement by various bodies or authorities established under the Act; co-ordinate actions taken by the concerned Ministries, Departments or organisations of the Government, especially linking the source of transit to destination and connecting all stakeholders; review measures for combating, preventing and formulating co-ordinated strategy of action by various law enforcement agencies; make sustained efforts for capacity building and training of agencies; bring out resource material including education curriculum for children, Panchayat Raj institutions, enforcement agencies, judicial officers and other stakeholders; co-ordinate investigating activities among the Districts, States and with other countries in case of cross-border trafficking of persons; co-ordinate the investigation, where international ramifications are reported or suspected; co-ordinate investigation, where inter-State ramifications are reported or suspected across two or more States or Union-territory Administrations; undertake and facilitate other investigators for investigating offences from the organised crime perspective; develop and monitor a database on every crime under this Act; co-ordinate with any national or international investigating or law enforcement agencies and civil society organisations; facilitate inter-State and international transfer of evidence in investigation as well as video conferencing in judicial proceedings; facilitate frequent meetings of the State Police Nodal Officers to facilitate, monitor and evaluate the establishment and functioning of Anti-Trafficking Units; provide necessary support for investigation by the Anti-Trafficking Units, where such requests are made; undertake steps to enhance the professional skills of Anti-Trafficking Police Officers, Anti-Trafficking Units and all concerned with the investigation and prosecution of cases; facilitate inter-State and trans-border transfer of evidence and materials, witnesses and others for expediting prosecution; protection of witnesses, victims, complainants and affected families, as the case may be; undertake steps for timely and effective action on post-rescue care and protection of any person who is trafficked, including steps towards rehabilitation by the concerned agencies, so that their rights are ensured, and that they are not re-trafficked; monitor and facilitate victim and witness protection protocols, rules and procedures including video conferencing during trial of offences which have ramifications across States and beyond borders; and develop minimum standards of care and advice for all concerned, in matters of compliance.

Clause 5 of the Bill seeks to provide for the investigation by the Bureau which includes that the Bureau may take over investigation of any offence under this Act, referred to it by two or more States; sub-clause (2) provides that where an offence is referred to the Bureau under sub-clause (1) of clause 5, the State Government shall not proceed with the investigation of the offence and shall forthwith transmit the relevant documents and records to the Bureau; till the Bureau takes up the investigation of the case, it shall be the duty of the officer-in-charge of the police station to continue the investigation of an offence under this Act. Sub-clause (4) provides that while investigating any offence under this Act, the Bureau, having regard to the gravity of the offence and other relevant factors, may if it is expedient to do so, request the State Government to associate with the investigation; or with the previous approval of the Central Government, transfer the case to the State Government for investigation and trial of the offence. Sub-clauses (5) and (6) provides that while investigating any offence under this Act, the Bureau may also investigate any other offence under any law for the time being in force, which the accused is alleged to have committed, if the offence is connected with such other offence and the State Government shall extend assistance and co-operation to the Bureau for investigation of an offence under the Act. Sub-clause (7) provides that save as otherwise provided, nothing contained in the Act shall affect the powers of the State Government to investigate and prosecute any offence under the Act or other offences under any other law for the time being in force.

Clause 6 of the Bill seeks to provide that the State Government shall appoint a State Nodal Officer, not below the rank of Director in the State Government, who shall be responsible for follow up action under the Act, as per the direction of the State Anti-Trafficking Committee and co-ordinate with other Government agencies and civil society organisations, provide relief and rehabilitation services through District Anti-Trafficking Unit and other Government agencies as well as civil society organisations and liaison with the State Police Nodal Officer, National Anti-Trafficking Relief and Rehabilitation Committee for all matters relating to relief and rehabilitation.

Clause 7 of the Bill seeks to provide that the State Government shall appoint a State Police Nodal Officer of such rank as may be specified by that Government, who shall be responsible for all the activities in the prevention and combating of trafficking of persons in the State and also to monitor the functioning of Anti-Trafficking Police Officers and Anti-Trafficking Units in the State and co-ordinate and monitor inter-State and trans-border transfer of persons rescued, witnesses, evidence and offenders under this Act and liaison with State Nodal Officer and such other functions as may be prescribed.

Clause 8 of the Bill seeks to provide that the State Government shall designate one police officer not below the rank of Superintendent of Police of the District to be the District Police Nodal Officer on matters relating to trafficking of persons and responsible for all the activities in the District concerned and perform such other functions as may be prescribed. Sub-clause (2) provides that the District Police Nodal Officer shall be the convener of the District Anti-Trafficking Committee and shall report to the State Police Nodal Officer in every matter relating to an offence of trafficking of persons including rescue, investigation and inter-State transfer of a person who is trafficked and also of the offenders. Sub-clause (3) provides that the District Police Nodal Officer shall monitor the functioning of Anti-Trafficking Unit and provide necessary assistance to them for the effective discharge of their duties.

Clause 9 of the Bill seeks to provide that the State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution and the State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution.

Clause 10 of the Bill seeks to provide that the appropriate Government shall set up for each District or a group of Districts, such number of Anti-Trafficking Units, for dealing with

all matters of prevention, rescue, protection and care of victims and witnesses and of investigation and prosecution of any offence under the Act. Sub-clause (2) provides that every local police station shall undertake every activity in matters of rescue, investigation, prevention and protection of persons trafficked under this Act and where the Anti-Trafficking Unit is not functional. Sub-clause (3) provides that the State Government shall appoint for every Anti-Trafficking Unit such number of subordinate police officers including women police officers as it deems necessary for the discharge of the functions of the Anti-Trafficking Unit and vest in them with all the powers to investigate any offence committed within its local jurisdiction under the Act and the officer-in-charge of a police station after registering the First Information Report under section 154 of the Code of Criminal Procedure, 1973, shall take all necessary action for immediate rescue and protection and then transfer the case to the Anti-Trafficking Unit.

Clause 11 of the Bill seeks to provide for the establishment of National Anti-Trafficking Relief and Rehabilitation Committee by the Central Government and by notification. Sub-clause (2) provides for the composition of the Committee which shall consist of a Chairperson, who is the Secretary, Ministry of Women and Child Development, Member-Secretary who is the Head of National Anti-Trafficking Bureau, representatives from Ministry of Home Affairs, Ministry of External Affairs, Ministry of Labour and Employment, Ministry of Social Justice and Empowerment, Ministry of Panchayati Raj, Ministry of Health and Family Welfare, Legislative Department, Four representatives from registered civil society organisations active in the prevention, rescue and rehabilitation of victims and such other representatives of the Ministries or Departments or experts representing different States, as may be prescribed. Sub-clause (3) seeks to provide for the functions of the National Anti-Trafficking Relief and Rehabilitation Committee, including to facilitate and ensure rehabilitation and relief services including compensation, repatriation, re-integration to the victims through concerned Ministries, Departments and statutory bodies; provide for Protection Homes and Rehabilitation Homes to enable the immediate and long term sustainable rehabilitation of victims, ensure the effective co-ordination between the concerned authorities both within the country as well as with other countries for the repatriation of victims; seek reports from appropriate Government, State Anti-Trafficking Committee, District Anti-Trafficking Committee, on the quality of services and the functioning of the Protection Homes and Rehabilitation Homes; maintain and monitor the Rehabilitation Fund established under clause 30 and such other functions as may be prescribed.

Clause 12 of the Bill seeks to provide that the appropriate Government shall establish a State Anti-Trafficking Committee to oversee the implementation of this Act and advise the State Government and District Anti-Trafficking Committees on matters relating to prevention of trafficking, protection, repatriation and rehabilitation of victims and shall consist of a Chairperson, who is the Chief Secretary and other Members, such as Director General of Police; Secretary, Department of Women and Child, Secretary, Home Department; Secretary, Labour Department; Secretary, Health Department; Secretary, State Legal Services Authority; Secretary, Law Department; Protector of Emigrants, Ministry of External Affairs; State Police Nodal Officer; State Nodal Officer; two social workers out of which one shall be a woman and such other members as may be prescribed. Sub-clause (3) provides for the functions of the State Anti-Trafficking Committee to identify the roles and responsibilities of each Department at State or District level for effective implementation of the Act and the rules made under it; arrange for appropriate training and sensitisation of functionaries of all personnel including Governmental and non-Governmental; develop effective networking and linkages with local non-Governmental organisations for specialised services and technical assistance like vocational training, education, healthcare, nutrition, mental health intervention, drug de-addiction and legal aid services; review and monitor the functioning of District Anti-Trafficking Committee; make necessary funds available to the District Anti-Trafficking Committee for providing or setting up required facilities for the implementation of the Act, and such other functions and duties as may be prescribed. Sub-clause (4) provides that the State Anti-Trafficking Committee shall co-ordinate with Bureau and National Anti-Trafficking

Relief and Rehabilitation Committee to provide all necessary assistance and inputs as may be required to prevent offences of trafficking of persons especially, those that have inter-State and international ramifications and have features of an organised crime.

Clause 13 of the Bill seeks to provide that the appropriate Government shall, by notification, constitute for every District, a District Anti-Trafficking Committee for exercising the powers and performing such functions and duties in relation to prevention, rescue, protection, medical care, psychological assistance and need-based rehabilitation of victims and will consist of a Chairperson who is a District Magistrate or Additional District Magistrate, a Convener who is a District Police Nodal Officer and District Officer for Women and Child Development; representative from District Officer for Women and Child Development, District Legal Services Authority and Child Welfare Committee; two Civil Society Organisations and the Non-Governmental Organisations working in the field of prevention of trafficking and related issues and other members as may be prescribed. Sub-clause (3) further provides for the functions to be performed by the District Anti-Trafficking Committee, such as, direct and facilitate the person in-charge of the Protection Homes and Rehabilitation Homes, as the case may be, and submit an individual care plan to the District Anti-Trafficking Committee; ensure care, protection, appropriate rehabilitation or restoration of all victims, based on each victims' individual care plan and by passing necessary directions to Protection Homes and Rehabilitation Homes, co-ordinate with other State Departments and Panchayati Raj institutions, to keep a check on the children who drop out from schools and those children who are covered by various schemes and have stopped accessing the benefits of those schemes and inform such cases to State Anti-Trafficking Committee and take appropriate actions; facilitate in a time bound manner or in the manner as may be prescribed, the inter-State repatriation of victims or persons subjected to bonded labour; facilitate survey of the areas and vulnerable population to identify source, transit and destination areas of trafficking of persons and based on the information received, draw up an action plan for the prevention and protection of people who are vulnerable to trafficking and implementation of the action plan; create programmes for awareness generation, community mobilisation and empowerment of vulnerable social groups against trafficking of persons; assist the Anti-Trafficking Police Officer, the Anti-Trafficking Unit or the local police, as the case may be, in conducting rescue operation, transferring victims to the nearest Protection Home, in connection with prevention of trafficking of persons, protection of victims and their rehabilitation, etc., and such other functions as may be prescribed. Sub-clause (4) and (5) provides that the appropriate Government shall provide adequate resources to the District Anti-Trafficking Committee for carrying out prevention, protection and rescue procedures and the District Anti-Trafficking Committee shall furnish a report to the State Anti-Trafficking Committee on quarterly basis.

Clause 14 of the Bill seeks to provide that the District Anti-Trafficking Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the victims and in case of child victim, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

Clause 15 of the Bill seeks to provide that the provisions of the Code of Criminal Procedure, 1973 shall mutatis mutandis apply in relation to a search and seizure in respect of an offence under this Act.

Clause 16 of the Bill seeks to provide that where a police officer or Anti-Trafficking Police Officer or Anti-Trafficking Unit has reason to believe that it is necessary to rescue a person without undue delay due to the imminent danger that may cause to his life and person, he or it may remove such person from any place or premises and produce him before the Magistrate or Child Welfare Committee, as the case may be, and shall take all necessary steps for the medical examination of such person for the purposes of determination as to the age, the assessment or detection of trauma, injury, illnesses incidental thereto to him and the provisions of section 164A of the Code of Criminal Procedure, 1973 and section 27 of the Protection of Children from Sexual Offences Act, 2012 shall mutatis mutandis apply in relation

to a medical examination of any person under this section. Sub-clause (3) provides that the police officer or Anti-Trafficking Police Officer or Anti-Trafficking Unit, as the case may be, shall inform the District Anti-Trafficking Committee about the rescue conducted under this section and the Committee shall take appropriate actions for providing interim relief and further rehabilitation services to the person rescued.

Clause 17 of the Bill seeks to provide that the District Anti-Trafficking Committee shall assist the Anti-Trafficking Police Officer or the Anti-Trafficking Unit or any police officer, as the case may be, in rescue operation and transferring any person to the nearest Protection Home or any other suitable institution, as deemed fit by the District Anti-Trafficking Committee. Sub-clause (2) provides that the Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall produce the person rescued before the Magistrate or the Child Welfare Committee, as the case may be, without any loss of time but within twenty-four hours of the rescue. Sub-clause (3) provides that the Magistrate may, after making an inquiry as to the age of the person rescued and if it is found that the person is a child, pass such orders as he deems necessary for the care and protection of the person, and where the Magistrate is satisfied, after making an inquiry as to the age of the victim and it is found that the victim is not a child, the Magistrate may, make an order that the victim be placed, for such reasonable period, in a Rehabilitation Home and if the victim or any person rescued is not a child and he voluntarily makes an application supported by an affidavit for his release and if the Magistrate is of the opinion that such application has not been made voluntarily, the Magistrate may reject such application after recording his reasons in writing and in discharging his functions, a Magistrate may summon a mental healthcare professional, or psycho social counsellor, or clinical psychologist, or psychotherapist to assist him and may, for this purpose, in consultation with the District Anti-Trafficking Committee and District Legal Services Authority, maintain a list of experienced social workers.

Clause 18 of the Bill seeks to provide that the Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall ensure that investigation including search and seizure must be conducted in accordance with the provisions laid down in the Code of Criminal Procedure, 1973, and any other law for the time being in force. Sub-clause (2), provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Anti-Trafficking Police Officer or the officer-in-charge of the police station, as the case may be, shall forward the report on completion of investigation to the court having jurisdiction within ninety days from the date of registration of first information report. Sub-clause (3) provides that the clause provides that the investigating officer, while forwarding the report on completion of investigation of an offence under this Act, punishable with imprisonment of more than two years, has reason to believe that any amount suspected to have been obtained by the accused by way of commission of the offence and held by him in any bank account, the investigating officer may submit an application before the designated court for freezing of such amount and the designated court, on satisfaction, after an inquiry made in this behalf, may freeze such amount in any such bank account and may, upon conviction, order that such amount lying in such bank account, shall be remitted to the Rehabilitation Fund.

Clause 19 of the Bill seeks to provide that where a person is prosecuted for committing or abetting or attempting to commit any offence under this Act in respect of a child or a woman or a person suffering from physical or mental disability, unless it is specified, the designated court shall presume that such person has committed or abetted or attempted to commit the offence, as the case may be, unless the contrary is proved.

Clause 20 of the Bill seeks to provide that the State and the District Anti-Trafficking Committees shall undertake all measures and recommend strategies and plans to protect and prevent vulnerable persons from being trafficked and such measures shall include, coordinating the implementation of all the programmes, schemes and plans relating to the prevention of trafficking of persons with any statutory bodies, organisations or agencies as well as Panchayati Raj institutions; facilitating the implementation of livelihood and

educational programmes for vulnerable communities; facilitating the implementation of programmes and schemes sponsored by various Ministries and Departments of the appropriate Government; co-ordinating with corporate sector to implement the various schemes, programmes for the prevention of trafficking of persons, ensuring accountability of the concerned agencies, by regular review and appropriate action; developing appropriate law and order framework to ensure prevention of trafficking of persons; undertaking vulnerability mapping of the State and give focus and attention to the challenging areas, commissioning independent research on various aspects of trafficking and ensure follow up action; organising interface between law enforcement agencies, other Government Departments and agencies with the voluntary organisations or non-Governmental organisations in matters of prevention of trafficking of persons; bringing out annual report on trafficking of persons in the State, networking with the Bureau and other State Anti-Trafficking Committees, especially with those States where source-transit-destination linkages exist, and undertake all activities for joint action programmes by bringing in common policies and programmes; linking with the Bureau and the Central Government and other concerned agencies, in case of trans-border trafficking of persons and ensure appropriate action.

Clause 21 of the Bill seeks to provide that the appropriate Government shall maintain either directly or through voluntary organisations or non-Governmental organisations as many Protection Homes as necessary and to be managed in the manner, as may be prescribed for the immediate care and protection of the victims or any person rescued and the Protection Homes shall provide for shelter, food, clothing, counselling and medical care that is necessary for the victims or any person rescued and such other services in the manner, as may be prescribed.

Clause 22 of the Bill seeks to provide that the appropriate Government, as it deems fit, shall maintain either directly or through voluntary organisations or non-Governmental organisations, one or more Rehabilitation Homes in each District managed in the manner as may be prescribed for the purpose of providing long-term rehabilitation of victims or any person rescued. Sub-clause (2) provides that the appropriate Government may also utilise any existing shelter home for the purposes of rehabilitation.

Clause 23 of the Bill seeks to provide that notwithstanding anything contained in any other law for the time being in force, a Protection Home and Rehabilitation Home shall be registered under this Act in such manner as may be prescribed by the appropriate Government and if any person in-charge of Protection Home and Rehabilitation Home providing shelter and rehabilitation to victims or any person rescued contravenes any of the provisions of sub-clause (1) of clause 23, he shall be punished with imprisonment which may extend to one year or with fine which shall not be less than one lakh rupees, or with both.

Clause 24 of the Bill seeks to provide that a victim or any person rescued on behalf of him may make an application to the Magistrate within the local limits of whose jurisdiction the victim or such other person is trafficked or suspected to be trafficked for an order that he may be kept in a Rehabilitation Home and in case the victim or any person rescued is a child, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply. Sub-clause (2) provides that the Magistrate may, pending inquiry under sub-clause (3) or (4) of clause 17, direct that the victim or any person rescued be kept in such care and protection as he may consider proper, having regard to the circumstances of the case and the Magistrate shall consult the District Anti-Trafficking Committee before taking a final decision with respect to the rehabilitation of the victim or such other person.

Clause 25 of the Bill provides that where the person rescued is a victim, the District Anti-Trafficking Committee shall ensure that the rehabilitation of the person is not contingent upon criminal proceedings being initiated against the accused or the outcome thereof.

Clause 26 of the Bill seeks to provide that the District Anti-Trafficking Committee or the Child Welfare Committee, as the case may be, shall be responsible for the repatriation of

victims by co-ordinating with their counterparts in any other District and where the State Anti-Trafficking Committee is of the opinion that a victim from a foreign country needs to be repatriated to the country of origin, it may deal with the matter under any law for the time being in force. Sub-clause (3) provides that the State Nodal Officer shall obtain informed written consent from the victim for repatriation purposes, and where needed, shall make arrangements for the counselling of the victim by trained psycho social professionals. Sub-clause (4) provides that the repatriation of the victims shall be completed within a period of three months for inter-State repatriation, and within six months in case of cross border repatriation from the date of rescue by the District Anti-Trafficking Committee, or the Child Welfare Committee, or State Police Nodal Officer, as the case may be, and any delay in repatriation shall be recorded for reasons in writing and shall be reported to the National Anti-Trafficking Relief and Rehabilitation Committee and the Bureau forthwith.

Clause 27 of the Bill seeks to provide that upon application for interim relief by the victim, the District Anti-Trafficking Committee or Child Welfare Committee, as the case may be, shall take immediate steps to award interim relief to the victim as deemed appropriate not later than thirty days, taking into consideration all aspects, including physical, mental trauma and the other requirements of the victim and the appropriate Government shall provide adequate funds at the disposal of the District Anti-Trafficking Committee for the purposes under sub-clause (1) of clause 27, within a period of one month from the date of commencement of this Act.

Clause 28 of the Bill seeks to provide that the District Anti-Trafficking Committee shall take steps to ensure that appropriate relief is provided to the victim, within sixty days from the date of filing of charge sheet and the relief amount shall be in addition to any other compensation including any amount or benefit payable by way of any scheme of the appropriate Government or pursuant to any order of the court under any law for the time being in force.

Clause 29 of the Bill seeks to provide that where any property is, or is likely to be, used for the commission of an offence under this Act and the property is concealed, transferred or dealt with in any manner which may result in frustrating any proceedings under this Act, the designated court may attach such property and the designated court shall give an opportunity to be heard to the person who is the owner or occupier of the property. Sub-clause (2) provides that where a person has been convicted of any offence under this Act, the designated court shall, in addition to awarding any punishment, declare that any property, movable or immovable or both, belonging to such person or held by any person on his behalf, which has been used for the commission of that offence or accrued thereby, or which has been attached under sub-clause (1), shall stand forfeited to the appropriate Government and the same may be authorised for the purpose of realisation of any fine imposed by the designated court and the proceeds shall be remitted to the Rehabilitation Fund.

Clause 30 of the Bill provides for Rehabilitation Fund by the Central Government for the welfare and rehabilitation of the victims under this Act and there shall be credited thereto any grants and loans made by the appropriate Government, any voluntary donations, contributions or subscriptions, whether or not for any specific purpose as may be decided upon by the Central Government, any fine recovered for the commission of an offence under the Act which may include recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973, the amount seized from any bank account frozen under sub-clause (4) of clause 18 and any other sums as may be received. Sub-clause (2) provides that the State Government may supplement the Rehabilitation Fund and the Rehabilitation Fund shall be utilised under this Act by the appropriate Government for the establishment and administration of Protection Homes and Rehabilitation Homes, supporting innovative programmes for the welfare and rehabilitation of the victims, strengthening legal assistance and support, providing entrepreneurial support, skill development training or vocational training, providing aftercare facilities for capital and infrastructure to the victims who are ready to integrate into mainstream society by setting up small business or profession, providing victim and witness

protection, awareness generation programmes for the prevention of trafficking of persons, creating community-based programmes to identify, report and prevent trafficking of persons, providing specialised professional services, counsellors, translators, interpreters, social workers, mental health care professionals, vocational trainers or such other specialised professionals, for the victims and any other activity that may be required for effective implementation of the Act. Sub-clause (4) provides that the Rehabilitation Fund shall be maintained and monitored by the National Anti-Trafficking Relief and Rehabilitation Committee and shall be made available to the State and District Anti-Trafficking Committees towards prevention, protection and prosecution of matters relating to trafficking of persons. Sub-clause (6) provides that any fine recovered for the commission of an offence under the Act shall also be remitted to the Rehabilitation Fund which includes recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973 and the generation, dissemination and utilization of Fund shall be regulated in the manner as may be prescribed by the Central Government.

Clause 31 of the Bill seeks to provide for the offence of aggravated forms of trafficking, such as trafficking for the purpose of forced labour or bonded labour by using violence, intimidation, inducement, promise of payment of money, deception or coercion or by subtle means including, allegations of accumulated debt by the person, retention of any identity paper, threats of denunciation to authorities, or for the purpose of bearing child, either naturally or through assisted reproductive techniques, or by administering any narcotic drug or psychotropic substance or alcohol on a person for the purpose of trafficking or forcing him to remain in exploitative condition, by administering any chemical substance or hormones on a person for the purpose of early sexual maturity, or for the purpose of marriage or under the pretext of marriage trafficks a woman or child after marriage, or by causing serious injury resulting in grievous hurt or death of any person, including death as a result of suicide as a consequence of trafficking of person, or who is a pregnant woman or the offence results in pregnancy of the person, or by causing or exposing the person to a life-threatening illness including acquired immuno deficiency syndrome or human immunodeficiency virus, or for the purpose of begging, or who is a mentally ill person as defined in clause (1) of section 2 of the Mental Health Act, 1987 or a person with disability as defined in clause(s) of section 2 of the Rights of Persons with Disabilities Act, 2016, or as a consequence of trafficking, the person becomes mentally ill or disabled, or by encouraging or abetting any person to migrate illegally into India or Indians in to some other country.

Clause 32 of the Bill seeks to provide that whoever commits the offence of aggravated form of trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to life imprisonment and shall also be liable to fine which shall not be less than one lakh rupees.

Clause 33 of the Bill seeks to provide that whoever is convicted of the offence of trafficking on more than one occasion shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine which shall not be less than two lakh rupees.

Clause 34 of the Bill seeks to provide that whoever keeps or manages, or acts or assists in the keeping or management of a premises to be used as a place for trafficking of any person shall be punished with rigorous imprisonment for a term which may extend to five years and also with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with rigorous imprisonment for a term which shall not be less than seven years and with fine which may extend to two lakh rupees. Sub-clause (92) also provides that whoever being a tenant, lessee, occupier or person in-charge of any premises, uses, or knowingly allows any other person to use, the premises or any part thereof as a place for trafficking of persons, or being the owner, lessor or landlord of any premises, or the agent of such owner, lessor, or landlord, lets out the same, or any part thereof with the knowledge that the same or any part thereof is intended to be used as a place of exploitation of the victim, or is wilfully a party to the use of the premises or any part

thereof as a place for trafficking of persons, shall be punished on first conviction with imprisonment for a term which may extend to three years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and also with fine which may extend to two lakh rupees. The clause further provides for an explanation, that for the purposes of sub-clause (2) of clause 34, it shall be presumed until the contrary is proved, that any person referred to in items (i) or (ii) of sub-clause (2) has not exercised due diligence in allowing to use or letting out the premises or in allowing the premises or any part thereof to be used as a place of exploitation or, as the case may be, and has knowledge that the premises or any part thereof was being used as a place of exploitation of the victim. The clause also provides that notwithstanding anything contained in any other law for the time being in force, on conviction of any person referred to in items (i) or (ii) of sub-clause (2), of any offence under this Act in respect of any premises or any part thereof, any lease or agreement under which such premises have been leased out or held or occupied at the time of the commission of the offence, shall become void with effect from the date of the said conviction.

Clause 35 of the Bill seeks to provide that notwithstanding anything contained in any other law for the time being in force, the Magistrate shall, on receipt of information from the police or otherwise, that any premises or any part thereof is being used for the purpose of trafficking of persons, issue notice to the owner, lessor or landlord of the premises or part thereof, or the agent of the owner, lessor or landlord, or on the tenant, lessee, occupier of, or any other person in charge of such premises or part thereof, to show cause within seven days of the receipt of the notice why the same should not be sealed or attached for improper use thereof; and, after hearing the person concerned, if the Magistrate is satisfied that the premises or part thereof is being used for trafficking of persons, then, the Magistrate may pass an order by directing eviction of the occupier or any person from the premises, within seven days of the passing of the order; directing that the owner, lessor, or landlord, or the agent of the owner, before letting out the premises or any part thereof, which, during the rescue or search has been found to be used for the purpose of trafficking, shall obtain the previous permission of the Magistrate and the Magistrate shall pass appropriate orders within thirty days from the date of order and where no permission is granted within such period, the permission shall be deemed to have been granted. Sub-clause (2) provides that if the Magistrate, after the show cause notice issued under sub-clause (1) of clause 35, finds that the premises or any part thereof was used for trafficking of any person, the owner, lessor, landlord as well as the agent of the owner, lessor, landlord exercised due diligence in letting out premises or any part thereof, then, the same shall be restored to the owner, lessor or landlord, or the agent of the owner with an undertaking that the premises or any part thereof shall not be leased out, or otherwise given possession of, or for the benefit of the person who was allowing the improper use therein, within two months of the issuing of the show cause notice by the Magistrate. Sub-clause (3) provides that if the Magistrate is satisfied that the premises or part thereof was not used for trafficking of any person, he shall cause the same to be restored to the owner, lessor or landlord, or the agent of the owner lessor, landlord, tenant, lessee, occupier or any other person in-charge of the premises or part thereof within two months of the issuance of the show cause notice and when an owner, lessor or landlord, or the agent of the owner, lessor or landlord fails to comply with a direction given under item (ii) of sub-clause (1), he shall be punished with fine which may extend to one lakh rupees.

Clause 36 of the Bill seeks to provide that a person is said to promote, procure or facilitate the commission of trafficking of person, if that person, produces, prints, issues or distributes unissued, tampered or fake certificates, registration or stickers as proof of compliance with Government requirements, or advertises, publishes, prints, broadcasts or distributes, or causes the advertisement, publication, printing or broadcast or distribution by any means, including the use of information technology or any brochure, flyer or any propaganda material that promotes trafficking of person or exploitation of a trafficked person in any manner, or assists in the conduct of misrepresentation or fraud for the purposes of

procuring or facilitating the acquisition of clearances and necessary documents from Government agencies for the purpose of trafficking of any person. Sub-clause (2) provides for rigorous imprisonment 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 which shall not be less than one lakh rupees for the punishment for promoting or facilitating trafficking of person.

Clause 37 of the Bill seeks to provide that whoever abets any person to commit any offence under this Act and if the act abetted is in consequence of the abetment, shall be punished with the punishment provided for that offence.

Clause 38 of the Bill seeks to provide that notwithstanding anything contained in any other law for the time being in force, whoever knowingly or having reason to believe that a person has been trafficked, fails to perform a duty, which he is entrusted under this Act, for providing care, protection and rehabilitation to a victim or performs duty but knowingly causes physical or mental injury or hardship or trauma to the victim shall be punished with fine which shall not be less than fifty thousand rupees and in the event of a second or subsequent offence with rigorous imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees.

Clause 39 of the Bill seeks to provide that whoever buys or sells any person for a consideration, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years, and shall also be liable to fine which shall not be less than one lakh rupees. Sub-clause (2) provides that whoever solicits or publicises electronically, taking or distributing obscene photographs or videos or providing materials or soliciting or guiding tourists or using agents or any other form which may lead to the trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than five years but may extend to ten years, and shall also be liable to fine which shall not be less than fifty thousand rupees and may extend to one lakh rupees.

Clause 40 of the Bill seeks to provide that whoever hires or otherwise obtains possession, or lets to hire, or in any manner disposes of a person, for the purpose of trafficking of person, shall be punished with imprisonment of either description for a term which shall not be less than three years but may extend to five years and shall also be liable to fine which shall not be less than one lakh rupees.

Clause 41 of the Bill seeks to provide that whoever commits trafficking of a person with the aid of media, including, but not limited to print, internet, digital or electronic media, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years and shall also be liable to fine which shall not be less than one lakh rupees. Sub-clause (2) provides that whoever distributes, or sells or stores, in any form in any electronic or printed form showing incidence of sexual exploitation, sexual assault, or rape for the purpose of extortion or for coercion of the victim or his family members, or for unlawful gain shall be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to seven years and shall also be liable to fine which shall not be less than one lakh rupees.

Clause 42 of the Bill seeks to provide that no report or any newspaper or magazine or news-sheet or audio-visual media or any other form of communication regarding any inquiry or investigation or judicial proceedings at any stage shall disclose the name, address or any other particulars, which may lead to the identification of a victim or witness of trafficking of person under this Act shall be published and for reasons to be recorded in writing, the designated court may permit such disclosure, if in its opinion, such disclosure is in the best interest of the victim. It also provides that any person who contravenes the provisions of sub-clause (1) shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees, or with both: and in case, the victim is a child, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

Clause 43 of the Bill seeks to provide that where an act or omission constitutes an offence punishable under this Act and also under any other law for the time being in force, then, notwithstanding anything contained in any such law, the person found guilty of such offence, shall be liable to punishment under such law which provides for punishment which is greater in degree. Sub-clause (2) provides that a designated court convicting a person of any offence under this Act may also pass an order for the auction of the premises or any part thereof and the proceeds of such auction shall be ordered to be remitted to the Rehabilitation Fund. Sub-clause (3) provides that when an occupier or any other person fails to comply with a direction given under item (i) of sub-clause (1) of clause 35, he shall be deemed to have committed an offence under clause 34 and shall be punished accordingly.

Clause 44 of the Bill seeks to provide that whoever attempts to commit an offence punishable by this Act with imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.

Clause 45 of the Bill seeks to provide that nothing is an offence which is committed or attempted to have been committed by a victim, punishable with death or imprisonment for life or for imprisonment for ten years, if the offence is committed or attempted to have been committed, under coercion or compulsion or intimidation or threat or undue influence by any person and where, at the time of committing the offence, the victim is subjected to reasonable apprehension of his death, grievous hurt or any other injury to him or to any other person whom he is interested in.

Clause 46 of the Bill seeks to provide for Designated Courts for the purposes of providing speedy trial of any offence under this Act. It further provides that the State Government shall, in consultation with the Chief Justice of the High Court, by notification, designate for each district, a Court of Session, within two months from the date of commencement of this Act, to try any offence under this Act.

Clause 47 of the Bill seeks to provide that the appropriate Government may, by notification, appoint Special Public Prosecutors for every designated court for conducting cases under this Act and every person appointed as a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 and provisions of that Code shall have effect accordingly. Sub-clause (3) provides that subject to the provision contained in section 301 of the Code of Criminal Procedure, 1973, the victim shall be entitled to the assistance of a legal counsel of his choice for any offence under this Act and if the victim is unable to afford a legal counsel, the Legal Services Authority shall provide a counsel to him.

Clause 48 of the Bill seeks to provide that the designated court shall complete the trial, as far as possible, within a period of one year from the date of taking into cognizance of any offence under this Act and may record the statement of any victim through video conferencing in any case, where the victim is unable to appear before the court for the reasons of safety or confidentiality. It also provides that in all matters of transborder and inter-State crimes where the victim has been repatriated to any other State or country is unable to attend the court proceedings, the court may order video conferencing to record their statement. It also provides that notwithstanding anything contained in this Act, the inquiry into and trial of offences under this Act, may be conducted in *camera*, if an application is made in this regard by the victim.

Clause 49 of the Bill seeks to provide that the designated court may order, where applicable, any back wages of the victim to be paid to him. Sub-clause (2) provides that the designated court shall on its own motion or on an application filed by or on behalf of the victim, award compensation under section 357A of the Code of Criminal Procedure, 1973, or

under any other law for the time being in force or otherwise at any stage of the proceedings and the appropriate Government shall ensure that the relief ordered by the designated court is paid within sixty days from the date of receipt of the order.

Clause 50 of the Bill provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of the designated court to the High Court and every appeal under this section shall be preferred within a period of sixty days from the date of judgment, sentence or order appealed against and the High Court may entertain an appeal after the expiry of the said period if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

Clause 51 of the Bill seeks to provide that the designated court, if on an application made by a victim, witness or a complainant in any proceeding before it or by the Special Public Prosecutor in relation to such victim, witness or a complainant or on its own motion, is satisfied that the life of such victim, witness or a complainant is in danger, it may, for reasons to be recorded in writing, take such measures to protect such victim, witness and the complainant. Sub-clause (2) provides that in particular, and without prejudice to the generality of the provisions of sub-clause (1) of clause 51, the measures which a designated court may take under that sub-section may include, the holding of the proceedings at a place to be decided by the designated court; the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public; the issuing of any directions for securing that the identity and address of the witnesses are not disclosed; and a decision that it is in the public interest to order that all or any of the proceedings pending before such a court shall not be published in any manner.

Clause 52 of the Bill seeks to provide that all offences under this Act shall be cognizable and non-bailable. Sub-clause (2) provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, (a) nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act with imprisonment of more than two years, (b) no person accused of committing an offence under this Act shall be released on bail or on his own bond unless—(i) the Special Public Prosecutor has been given an opportunity to oppose the application for such release, (ii) where the Special Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail, (c) the victim shall have a right to be heard in all bail matters. Sub-clause (3) provides that the conditions on granting of bail specified in item (b) of sub-clause (2) are in addition to the conditions provided under the Code of Criminal Procedure, 1973.

Clause 53 of the Bill seeks to provide that no suit, prosecution, or other legal proceeding shall lie against the Central Government or the State Government or any person acting under the directions of the Central Government or the State Government, as the case may be, acting in good faith, or intended to be done in pursuance of this Act, or of any rules made thereunder.

Clause 54 of the Bill seeks to provide that the Central Government may, by notification, make rules for carrying out the purposes of this Act. It also provides that 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 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.

Clause 55 of the Bill provide that the State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. Sub-clause (2) provides

that 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 State Legislature consists of One House, before that House.

Clause 56 of the Bill seeks to provide that 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 may appear to it to be necessary or expedient for removal of the difficulty and no such order shall be made under this section after the expiry of the period of two years from the commencement of this Act. Sub-clause (2) provides that every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Clause 57 of the Bill seeks to provide that the provisions of section 360 of the Code of Criminal Procedure, 1973 and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person who is found guilty of having committed an offence under this Act.

Clause 58 of the Bill seeks to provide that the provisions of sections 193, 195, 199 and 203 of Indian Penal Code shall apply to any person who is guilty of having committed an offence under this Act.

Clause 59 of the Bill seeks to provide that the provisions of this Act, shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall, by notification, establish a National Anti-Trafficking Bureau, having police officers and other officers of such appropriate ranks as may be necessary for the discharge of its functions.

2. Sub-clauses (1) and (2) of clause 29 provides that the designated court shall, in addition to awarding any punishment, declare that any property, movable or immovable or both, belonging to such person or held by any person on his behalf, which has been used for the commission of that offence or accrued thereby, or which has been attached under sub-clause (1), shall stand forfeited to the appropriate Government and the same may be authorised for the purpose of realisation of any fine imposed by the designated court and the proceeds shall be remitted to the Rehabilitation Fund.

3. Clause 30 of the Bill provides that the Central Government shall constitute a Rehabilitation Fund for the welfare and rehabilitation of the victims under this Act. It also provides that the State Government may supplement the Rehabilitation Fund. Besides, the Rehabilitation Fund may also be credited through grants and loans made by the appropriate Government; any voluntary donations, contributions or subscriptions; any fine recovered for the commission of an offence under the Act which may include recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973. Further, the proceeds through freezing of the bank accounts, as prescribed under sub-clauses (3) and (4) of clause 18, shall be remitted to the Rehabilitation fund.

4. Sub-clause (2) of clause 43 provides that the designated court convicting a person may also pass an order for the auction of the premises or any part thereof and the proceeds of such auction shall be ordered to be remitted to the Rehabilitation Fund.

5. The financial implication arising from the establishment of National Anti-Trafficking Bureau is estimated as recurring expenditure of Rs. 10 Crores in the first year and Rs. 20 crores each in the next two years and for Rehabilitation Fund it is estimated as an initial allocation of Rs. 10 crores and to be augmented subsequently on need basis.

6. It would be difficult to indicate the exact expenditure incurred in the appointment of officers of the National Anti-Trafficking Bureau etc. The Bill does not envisage any other expenditure of recurring or non-recurring.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub- clause (3) of clause 3 of the Bill provides for the manner of selection, deputation, functioning and reporting of the officers and employees of the National Anti-Trafficking Bureau.

2. Sub-clause (4) of clause 7 of the Bill provides that the State Nodal Officer shall perform such other functions as may be prescribed.

3. Sub- clause (1) of clause 8 of the Bill provides that the police officer not below the rank of Superintendent of Police of the District to be the District Police Nodal Officer on matters relating to trafficking of persons and responsible for all the activities in the District concerned, as may be prescribed.

4. Item (x) of sub-clause (2) of clause 11 of the Bill provides for inclusion of other representatives of the Ministries or Departments or experts representing different States in the composition of National Anti-Trafficking Relief and Rehabilitation Committee as may be prescribed. Item (vi) of sub-clause (3) of the said clause provides for prescribing other functions of National Anti-Trafficking Relief and Rehabilitation Committee as may be prescribed.

5. Item (xii) of sub-clause (2) of clause 12 of the Bill provides for nomination of such other members in the State Anti-Trafficking Committee. Item (vi) of sub-clause (3) of the said clause provides for the functions of the State Anti-trafficking Committee, including the nomination of such other members as may be prescribed.

6. Item (vi) of sub-clause (2) of clause 13 of the Bill provides for nomination of other members in the District Anti-Trafficking Committee, as may be prescribed. Item (iv) of sub-clause (3) of the said clause provides for inter-State repatriation of victims or persons subjected to bonded labour by the District Anti-trafficking Committee in a time bound manner or in the manner as may be prescribed. Item (vii) of sub-clause (3) of the said clause provides for any other function as may be prescribed.

7. Sub-clause (1) of clause 21 of the Bill provides that the appropriate Government shall maintain either directly or through voluntary organisations or non-Governmental organisations as many Protection Homes as necessary and to be managed in the manner, as may be prescribed for the immediate care and protection of the victims or any person rescued. Sub-clause (2) of the said clause provides that the Protection Homes shall provide shelter, food, clothing, counselling and medical care that is necessary for the victims or any person rescued and such other services in the manner, as may be prescribed.

8. Sub-clause (1) of clause 22 of the Bill provides that the appropriate Government, as it deems fit shall maintain either directly or through voluntary organisations or non-Governmental organisations, one or more Rehabilitation Homes in each District managed in the manner as may be prescribed for the purpose of providing long-term rehabilitation to the victims or any person rescued.

9. Sub-clause (1) of clause 23 of the Bill provides that the Protection Homes and Rehabilitation Homes shall be registered under this Act in such manner as may be prescribed by the appropriate Government.

10. Sub-clause (7) of clause 30 of the Bill provides that the generation dissemination and utilisation of Fund shall be regulated in the manner as may be prescribed by the Central Government.

11. The matters in respect of which rules may be made relate to matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

XVI

BILL NO. XL OF 2022

A Bill to provide for the establishment of a Commission for reorganization of States within the geographical boundaries of the Union of India with an objective to preserve and strengthen the unity of the India keeping into consideration, the linguistic, cultural, financial, economic and administrative viability of reorganization of a State corresponding to the safety and welfare of the citizens of the State as well as of the citizens of the nation.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the States Reorganization Commission Bill, 2022.
- (2) It shall extend 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.

Short title,
extent and
commencement.

Definitions.

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

- (i) "Chairperson" means the Chairperson of the Commission;
- (ii) "Commission" means the States Reorganization Commission established under section 3;
- (iii) "Deputy Chairperson" means the Deputy Chairperson of the Commission;
- (iv) "dissolution" means the action of formally discontinuing the existence of the Commission after the Commission has formally discharged its functions as assigned to it under section 8 of this Act;
- (v) "Members" means the Members of the Commission; and
- (vi) "prescribed" means prescribed by the rules as made under this Act.

CHAPTER II

THE STATES REORGANIZATION COMMISSION

Constitution
of States
Reorganization
Commission.

3. (1) The Central Government shall constitute a Commission, to be known as the States Reorganization Commission, to exercise the power conferred upon, and to perform the functions assigned to it, under this Act.

(2) The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, and shall by the said name sue and be sued.

(3) The head office of the Commission shall be at New Delhi.

Composition
of
Commission.

4. (1) The Commission shall consist of the following persons to be appointed by the Central Government, namely:—

- (a) a Chairperson;
- (b) a Deputy Chairperson;
- (c) the following persons as Members, namely:—
 - (i) two representatives from Ministry of Home Affairs, not below the rank of Additional Secretary to the Government of India;
 - (ii) three representatives from All India Services, preferably from Indian Administrative Services and Indian Police Services not below the rank of Joint Secretary or equivalent; and
 - (iii) a retired Judge of the Supreme Court or the High Court.

(2) The Central Government may also appoint temporary or part-time Members to the Commission, as may be prescribed, who shall be selected from amongst persons who:—

- (a) have special knowledge of the finances and accounts of the Government; or
- (b) have considerable experience in matters of State administration; or
- (c) have special knowledge of linguistics and culture of the concerned State; or
- (d) are members of State services of the concerned State; or
- (e) are, or have been qualified to be appointed as Judge of High Court.

(3) The Chairperson, Deputy Chairperson and other members of the Commission shall be persons of outstanding ability and eminence, proven capacity for institution building and

governance with high levels of integrity; with not less than experience of ten years in handling matters of public affairs.

5. (1) The Chairperson, Deputy Chairperson/Members and part-time Members shall hold office for such period, beginning from the date of appointment by the Central Government, till the date of dissolution of the Commission after the Commission discharges the purposes mentioned as per this Act:

Term of Office and conditions of service of Chairperson, Deputy Chairperson and Members.

Provided that Chairperson, Deputy Chairperson and Members shall cease to hold office on attaining the age of seventy years or earlier on resignation, by letter addressed to the President of India.

(2) Where a Member is absent from three consecutive ordinary meetings of the Commission and the cause of such absence is not attributable to any valid reason in the opinion of Commission, such Member shall be deemed to have vacated the seat.

(3) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination by the Central Government.

(4) The salary and allowances payable to and other terms and conditions of service of the Chairperson, Deputy Chairperson, Members part time Members and officers and staff of the Commission shall be such as may be prescribed.

6. (1) The Central Government may, by order, remove from office, the Chairperson, Deputy Chairperson or any Member, who—

Removal of Chairperson and Members of Commission.

(a) has been adjudged an insolvent; or

(b) has been convicted with an offence which, in the opinion of Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of continuing in office; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) has acquired such financial or other interests as is likely to affect prejudicially his functions; or

(f) has so abused his position as to render his continuance in office prejudicial to public interest.

(2) No person shall be removed under clauses (e) and (f) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

7. (1) The Commission shall meet at least once every quarter at such time and place as may be appointed by the Chairperson.

Meetings of the Commission.

(2) The Chairperson shall preside over the meeting of the Commission and if, for any reason, the Chairperson is unable to attend a meeting of the Commission, the Deputy Chairperson, shall preside over the meeting.

(3) The Commission shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided by regulations made under this Act.

(4) The general superintendence, direction and control of the administration of the Commission shall vest in the Chairperson.

8. (1) The Commission shall perform such functions with regard to the reorganization of the State as may be assigned to it by the Central Government.

Functions of the Commission.

(2) Without prejudice to the generality of the foregoing provision, the Commission shall ensure the following for the preservation of unity of the nation as well as safety and

welfare of the citizens of the State:—

(a) allocate land within the geographical boundary of the Union of India;

(b) allocate water and other natural resources after reorganization;

(c) in conformity to the All India Services Act of 1951, allocate All India Services officers after reorganization;

(d) in consultation with the State Government, allocate State Government employees after reorganization;

(e) in consultation with the Election Commission of India and, delimit constituencies for the elections to the House of the People and State Legislative Assemblies; and

(f) allocation of financial assets after reorganization.

Powers of
Commission.

9. (1) The Commission shall be entrusted with such powers as may be prescribed by the Central Government to ensure proper fulfillment of the function under this Act.

(2) The Commission shall have the power to:—

(a) order any person to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, any matter under the consideration of the Commission; and

(b) secure the assistance of any office or agency under the administrative control of the State undergoing reorganization, for carrying out the functions of the Commission assigned under this Act.

CHAPTER III

MISCELLANEOUS

Powers of
Central
Government
to issue
directions to
the
Commission.

10. (1) In performance of its functions under this Act, the Commission shall be bound by such directions on questions of policy of reorganization as the Central Government may issue from time to time:

Provided that the Commission shall be duly given an opportunity to communicate and express its views before any direction is given to it.

(2) The decision of the Central Government, whether the concern expressed by the Commission is one of policy of reorganization or not, shall be final.

Report of the
Commission.

11. (1) The Commission shall submit its report on the reorganization of States to the Central Government within a period of one year of the date of first sitting of the Commission:

Provided that the Central Government, may, on a special request made by the Commission, extend the time of submission of such report by not more than six months as it may deem appropriate.

(2) The Commission shall furnish any information related to the process of reorganization, as sought by the Central Government from time to time:

Provided that the Commission shall duly be given time to collect and collate the sought information as deemed appropriate by the Central Government.

(3) The report as stated in sub-section (1) and information as stated in sub-section (2), after critical observation by the Central Government, be published in a downloadable format on a Central Government Website:

Provided that the report shall be published within not more than fifteen days from the

date of submission to the Central Government and any other information shall be published within not more than seven days from the submission of information to the Central Government.

12. (1) The Commission shall have its own funds and all the receipts of the Commission shall be credited thereto and all payments made by the Commission shall be made therefrom.

Finance and
accounts of
the
Commission.

(2) The Central Government shall after due appropriation made by Parliament by law in this behalf, grant such sums of money to the Commission to carry out its functions, as it may consider necessary.

(3) The Commission may spend such sums as it thinks fit for the performance of its functions under this Act and such sums shall be treated as an expenditure payable out of the fund of the Commission.

(4) The Funds belonging to the Commission shall be kept in such bank as may be prescribed by the Central Government for the purpose or invested in securities authorized by the Indian Trusts Act, 1882, at the discretion of the Commission.

2 of 1882.

(5) If any sum granted by the Central Government remains wholly or partly unspent after the dissolution of Commission, such sum may, at the direction of Central Government, may be used for other official purposes as deemed fit by the Central Government.

13. If any difficulty arises in giving effect to the provisions of this act, the Central Government may make such an order or give such direction, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty so arisen:

Powers of
Central
Government
to remove
difficulty.

Provided that no such order or direction shall be given after the process of reorganization of State or dissolution of the Commission, whichever is earlier, has been completed.

14. (1) The Central Government may, by notification published in the Official Gazette, make rules for carrying out the purposes of this act.

Power of
Central
Government
to make rules.

(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 comprise of one session or two or more successive sessions. If before the expiry of the session, immediately following the session or the successive sessions aforesaid, both the Houses are in agreement of any applicable modification in the rule(s) 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 so be. 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 States Reorganization Commission was formed in 1953 to receive recommendations for fair partition of the States of the Union of India after Independence. The Commission's primary purpose then was to re-organize India which could be said to be a result of accidents and circumstances attending to the growth of British power. Now, after 72 years of Independence, a new Commission is required which would focus upon the reorganization of the States and districts from other modern viewpoints, specific to the financial, economic and administrative viability corresponding to the present day India and needs of the State seeking any such reorganization.

Hence, this Bill.

DR. SASMIT PATRA

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the salary and allowances payable to and other terms and conditions of service of the Chairperson, Deputy Chairperson, Members, part-time Members and officers and staff of the Commission. Clause 12 of this Bill provides for the grants of sums of money to the Commission to carry out its functions as prescribed. Therefore recurring expenditure is involved from the Consolidated Fund of India which cannot be estimated at present. No non-recurring expenditure is likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 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.

XVII

BILL NO. LV OF 2022

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 the Parliament in the Seventy-third Year of the Republic of India as follows:—

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, 2022.

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.

Substitution of
Preamble.

2. In 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), for the preamble, the following shall be substituted, namely:—

"WHEREAS India is a signatory to the World Health Organization Framework Convention on Tobacco Control adopted in Geneva, Switzerland on 21st day of May, 2003 which came into force on the 27th day of February, 2005;

AND WHEREAS the objective of this Convention and its protocols is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by the Parties at the national, regional and international levels to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke;

AND WHEREAS, it is considered expedient to enact a comprehensive law to implement the WHO Framework Convention on Tobacco Control and its Guidelines;

AND WHEREAS, it is expedient to prohibit the consumption of cigarettes and other tobacco products which are injurious to health with a view to achieving improvement of public health in general as enjoined by article 47 of the Constitution;

AND WHEREAS, it is considered expedient to enact a comprehensive law on the use of tobacco products in the public interest and to protect the public health;

AND WHEREAS, it is expedient to prohibit the advertisement of, and to provide for regulation of trade and commerce, production, supply, and distribution of, cigarettes and other tobacco products and for matters connected therewith or incidental thereto:"

Substitution of
reference to
certain
expression by
certain other
expression.

3. Throughout the principal Act, for the words "nicotine and tar contents", wherever they occur, the words, "constituents and emissions" shall be substituted.

Amendment
of section 3.

4. In section 3 of the principal Act,—

(a) for clause (a), the following clause shall be substituted, namely:—

"(a) "advertisement" includes any visible representation by way of notice, circular, label, wrapper, pamphlet, brochure, programme, pricelist, or other document and in any form of commercial communication, recommendation, or action with the aim, effect, or likely effect of promoting cigarettes or any other tobacco products, or tobacco use, either directly or indirectly.";

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

(ha) "medium" includes, audio, audio-visual, print including newspapers or magazines whether domestic or international, pamphlets, leaflets, flyers, and letters, billboards, hoardings, posters, signs, non-tobacco products, tobacco accessories, buildings or other structures, vehicles, television, radio, films, music, games, live performances, the internet including over-the-top media services, social media platforms, mobile telephones, and other new technologies";

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

"(ka) "promotion" includes any form of commercial communication, recommendation or action with the aim, effect, or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;"

(d) after clause (o), the following clause shall be inserted, namely:—

"(oa) "sponsorship" means any form of contribution to any event, activity or person with the aim, effect, or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;"

(e) after clause (p), the following clause shall be inserted, namely:—

"(pa) "trademark" means the whole or a part of a trademark that is registered under the Trade Marks Act, 1999 in respect of goods that are or include tobacco products, irrespective of whether the same or similar marks are also registered in respect of other goods or services."

47 of 1999.

5. For section 4 of the principal Act, the following section shall be substituted, namely:—

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

Explanation.— For the purpose of this section, the word "use" means smoking and spitting of tobacco."

Prohibition of smoking in a public place.

6. For section 5 of the principal Act, the following section shall be substituted, namely:—

"(1) No person shall initiate, produce, disseminate, or broadcast any advertisement or promotion of cigarette or any other tobacco product through any medium and no person shall directly or indirectly promote the use or consumption of cigarettes or any other tobacco products.

Prohibition of advertisement and production of cigarettes or any other tobacco product.

(2) No person, for any direct or indirect pecuniary benefit or otherwise, shall—

(a) display, cause to display, or permit or authorise to display any advertisement of cigarettes or any other tobacco product on any medium; or

(b) supply or offer to supply free samples of a tobacco product, including in connection with marketing surveys or taste testing; or

(c) import, distribute, sell, or offer for sale any confectionery or other food product or any toy or any other article that is designed to resemble a tobacco product or the packaging of which is designed to resemble the packaging commonly associated with a tobacco product; or

(d) offer to sell any tobacco product at a discounted price; or

(e) provide gifts or discounted products with the purchase of any tobacco product; or

(f) offer or engage in any incentive promotions, loyalty schemes, or whether requiring the purchase of tobacco products or not; or

(g) offer to sell or expose to sell any tobacco product on the internet, whether for cash or on credit, or by way of exchange or by any other means; or

(h) use a name, brand, mark, or trademark of a tobacco product on or in association with, or for marketing, promoting or advertising, any other product, service or event; or

(i) use particular colours, layouts or presentation that are associated with particular tobacco products for marketing, promoting or advertising, any other product, service or event; or

(j) market tobacco products with the aid of a name, mark or brand which is known as, or in use as, a name or brand for any other product, service, or event; or

(k) use tobacco products when advertising other goods and services; or

(l) promote or agree to promote whether directly or indirectly any mark, trademark or brand name of cigarettes or any other tobacco products; or

(m) promote through contribution or otherwise, or through an activity under corporate social responsibility, cigarettes or any other tobacco products.

(3) No person shall display, cause to display, or permit or authorize to display, cigarette or any other tobacco product, or their package, at the entrance or inside a warehouse or a shop where cigarettes or any other tobacco products are offered for distribution or sale.

(4) The owner or person in control of a warehouse or a shop where cigarettes or any other tobacco products are offered for distribution or sale, shall, ensure that cigarettes and other tobacco products are kept in a closed container or dispenser that is not accessible to any member of the public:

Provided that a board, listing the kind of cigarettes and other tobacco products available for sale, may be displayed in a manner as prescribed by rules made under this Act."

Explanation. —For the purpose of this section, "display" means, when cigarette or any other tobacco product or their package is visible to any member of the public in general and not during the course of a transaction for the sale of any specific tobacco product.

Substitution of section 6.

7. For Section 6 of the principal Act, the following section shall be substituted, namely:—

Prohibition on sale of cigarette or other tobacco products to person below the age of twenty-one years.

"6. No person shall—

(a) sell, offer for sale, or permit sale of, cigarette or any other tobacco product to any person who is under twenty-one years of age, or

(b) sell, offer for sale, or permit sale of, cigarettes or any other tobacco products in an area within a radius of one hundred meters of any educational institution."

Amendment of section 7.

8. In section 7 of the principal Act,—

(i) after sub-section (2), following proviso shall be inserted, namely: —

"Provided that the sale of cigarettes or any other tobacco products shall not be outside its package but in sealed, intact, original packaging of standard size, contents and weights, as may be prescribed."

(ii) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) No person shall directly or indirectly, produce, supply, or distribute cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products produced, supplied or distributed by him indicates thereon, or on its label, the constituents and emission contents on each cigarette or as the case may be on other tobacco products, in such manner as may be prescribed."

9. After Section 7 of the principal Act, the following section shall be inserted, namely:—

Insertion of new Section 7A.

"7A. (1) No person shall directly or indirectly, produce, supply, or distribute, import, sell, offer for sale, or permit sale of illicit cigarette or any other tobacco product.

Prohibition on production, supply, distribution, sale, etc. of illicit cigarettes or other tobacco products.

(2) The manner in which illicit cigarettes or any other tobacco product shall be identified, tracked or traced, be such as may be specified in the rules made under this Act.

Explanation.—For the purpose of this section, the expression, "illicit" means any practice or conduct prohibited by law and which relates to production, supply, distribution, import and sale, including any practice or conduct intended to facilitate such activity."

10. For section 23 of the principal Act, the following section shall be substituted, namely:—

Substitution of section 23.

"23. Where any person has been convicted for contravention of the provisions of this Act, the packages of cigarettes and other tobacco products or advertisement materials or any other materials may be forfeited to the Government and such packages or materials shall be disposed of in accordance with the provisions contained in the Code of Criminal Procedure, 1973."

Forfeiture of materials.

2 of 1974.

11. After section 24 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new section 24A.

"24A. (1) Any person who produces or manufactures or supplies or imports illicit cigarettes or any other tobacco products shall in the case of first conviction be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both, and for the second or subsequent conviction, with imprisonment for a term which may extend to five years and with fine which may extend to five lakh rupees.

Punishment for sale, supply, etc. of illicit cigarettes or other tobacco products.

(2) Any person who distributes, sell, offer for sale or permit sale of illicit cigarettes or any other tobacco products shall in the case of first conviction be punishable with imprisonment for a term, which may extend to one year, or with fine which may extend to fifty thousand rupees, or with both, and, for the second or subsequent conviction, with imprisonment for a term which may extend to two years and with fine which may extend to one lakh rupees.

12. In section 31 of the principal Act, in sub-section (2),—

Amendment of section 31.

(i) for clause (b), the following clause shall be substituted, namely:—

"(b) specify the form and manner in which constituents and emissions shall be indicated on the packages of cigarettes or other tobacco products under sub-section (5) of section 7;"

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

"(dd) specify the manner in which the illicit cigarette or any other tobacco product shall be identified, tracked, or traced, under sub-section (2) of section 7A;"

13. After section 31 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 31A and 31B.

"31A. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force prohibiting trade and commerce, production, supply and distribution of cigarettes and any other tobacco products.

Act to supplement other laws.

Act to have
overriding
effect.

31B. Save as otherwise expressly 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."

STATEMENT OF OBJECTS AND REASONS

The use of tobacco is a prominent risk factor for six to eight leading causes of death, and almost 40 per cent. of the Non-Communicable Diseases (NCD) including cancer, cardio-vascular diseases and lung disorders are directly attributable to tobacco use. The Ministry of Family Welfare, Government of India advisory on "*COVID-19 Pandemic and Tobacco Use in India*" states that tobacco use is also a risk factor for infectious diseases — *Covid*, tuberculosis and lower respiratory infections — health burdens that afflict much of humanity. The use of tobacco is a risk factor for many respiratory infections and increases the severity of respiratory diseases. Tobacco smoke including second-hand smoke contains over 7000 chemicals out of which more than 69 chemicals are cancer causing.

As per the Global Adult Tobacco Survey-India (GATS -2016-2017) conducted in the age group of 15 years and above in India, almost 27 crore adults use tobacco in some form or the other. The number of deaths every year in India which is attributable to tobacco use is more than 13.5 lakhs.

As per the GATS -2016-2017, 25.7 per cent. of adults were exposed to Second Hand Smoke (SHS) at a public place. As per the Global Youth Tobacco Survey (GYTS 4, 2019), 21% of students (13 to 15 years old school going children) were exposed to tobacco smoke inside enclosed public places. The Supreme Court in *Murli Deora vs Union of India, 2001* (8) SCC 765, wherein it was held that subjecting a non-smoker to tobacco smoke is violation of his Fundamental right guaranteed under article 21 of the Constitution of India, that none shall be deprived of his life without due process of law.

The Government of India enacted a comprehensive tobacco control legislation, namely, the Cigarettes and other Tobacco products (Prohibition of Advertisement and Regulations of Trade and Commerce Production, Supply and Distribution) Act, 2003 (COTPA, 2003), with emphasis on protection of children and young people from being addicted to the use of tobacco and with a view to achieve improvement of public health in general as enshrined in article 47 of the Constitution of India. Section 4 of COTPA mandates a ban on smoking in public places but provides in hotels/restaurants having 30 or more rooms/seats and at airports a separate space/area for smoking, well known as 'Designated Smoking Area'(DSA). COTPA prohibits the promotion, advertisement, sponsorship of cigarettes and other tobacco products, however, the proviso to sub-section (2) of section 5 of the Act allows advertisement at point of sale. Further, chewing tobacco products like, *khaini*, *gutkha*, *paan*, *zarda* etc. increases the urge to spit. Spitting in public places increases health risks especially those of spreading the infectious and contagious diseases like, COVID-19, tuberculosis, swine flu, encephalitis, etc. Hence a comprehensive ban on tobacco use in public place is imperative by amending COTPA 2003.

It is scientifically established that if a person is kept away from tobacco for the first twenty-one years of his life, there is a very high probability that he will remain tobacco free for rest of his life. It is mostly the teenagers and young school or college going students who are most vulnerable to the addiction of tobacco. Thus, there is need to increase minimum legal age for sale of tobacco products to 21 years, ban sale of cigarettes and other tobacco products loose or outside its package and ban comprehensively direct and indirect advertisement, promotion and sponsorship of tobacco products including point of sale.

It is, therefore, considered necessary to amend the aforesaid Act of 2003. This Bill seeks to amend the said Act to achieve the stated objectives.

SUJEET KUMAR

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill proposes to amend section 31 of the principal Act to empower the Central Government to make rules for specifying the form and the manner in which the constituents and omissions shall indicated on packages of cigarettes etc. and also the manner in which illicit cigarettes or tobacco products shall be identified, tracked or traced. The rules to be made by the Government pertain to matters of administrative detail only. The delegation is, therefore, normal in character.

XVIII

BILL NO. XLVIII OF 2022

A Bill to provide for the enhancement of livelihood security of the households in urban areas of the country by formulation of the Bhagat Singh National Urban Employment Guarantee Scheme aimed at providing at least two hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled, semi-skilled and skilled work and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Bhagat Singh National Urban Employment Guarantee Act, 2022.

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) "adult" means a person who has completed eighteenth year of age;
- (b) "applicant" means the head of a household or any of its other adult members who has applied for employment under the scheme;
- (c) "appropriate Government" means—
 - (i) in the case of a State, the Government of that State;
 - (ii) in the case of an Union Territory having its own legislature, the Government of that Union Territory; and
 - (iii) in other cases, the Central Government;
- (d) "household" means the members of a family related to each other by blood, marriage or adoption and normally residing together and sharing meals or holding a common ration card;
- (e) "minimum wage" means the minimum wage fixed by the appropriate Government under section 6 of the Code on Wages, 2019 for categories of unskilled/ semi-skilled/skilled labourers as applicable in that area;
- (f) "municipality" means an institution of self-Government constituted under article 243Q of the Constitution;
- (g) "prescribed" means prescribed by the rules made under this Act;
- (h) "notification" means a notification published in the Official Gazette;
- (i) "scheme" means The Bhagat Singh Urban Employment Guarantee Scheme notified by the Central Government under sub-section (1) of Section 4;
- (j) "semi skilled work" means work declared to be semi-skilled work by the appropriate Government;
- (k) "skilled work" means any work which any adult person is capable of doing only with any skill or special training;
- (l) "unskilled work" means any work which any adult person is capable of doing without any skill or special training;
- (m) "urban area" means such area as provided under article 243Q of the Constitution regarding Constitution of Municipalities;
- (n) "urban local body" means the principal authority responsible for administering this programme;
- (o) "wage rate" means the wage rate referred to in section 6;
- (p) "ward" means territorial constituencies in the municipal area; and
- (q) "ward sabha" means a demarcated territorial constituency of all persons registered as voters in the electoral rolls.

CHAPTER II

GUARANTEE OF EMPLOYMENT IN URBAN AREAS

Guarantee of
urban
employment
to households.

3. (1) Save as otherwise provided, the appropriate Government shall, in such urban area as may be notified by it, provide to every household whose adult members volunteer to do unskilled, semi-skilled and skilled work not less than two hundred days of such work in a financial year in accordance with the scheme made under this Act.

(2) The Existing schemes of the appropriate Government in this respect shall be modified to be in consonance with the provisions laid down by or under this Act and in the scheme.

(3) Every person who has done the work given to him under the scheme shall be entitled to receive wages at the wage rate for each day of work commensurate to their skills, qualifications and nature of work undertaken.

(4) Save as otherwise provided in this Act, the disbursement of daily wages shall be made directly to the beneficiary on a weekly basis or in any case not later than a fortnight after the date on which such work was done.

CHAPTER III

EMPLOYMENT GUARANTEE SCHEMES AND UNEMPLOYMENT ALLOWANCE

4. (1) For the purposes of giving effect to the provisions of section 3, The Central Government shall, within six months from the date of commencement of this Act, by notification, formulate a scheme, namely the Bhagat Singh Urban Employment Guarantee Scheme, for providing not less than two hundred days of guaranteed employment in a financial year to every household in the urban areas covered under the scheme and whose adult members, by application, volunteer to do unskilled, semi- skilled and skilled work subject to the conditions laid down by or under this Act and in the Scheme.

Employment
Guarantee
Schemes for
urban areas.

(2) The appropriate Government shall publish a summary of the scheme in at least two local newspapers, one of which shall be in a vernacular language circulating in the area or areas to which such scheme shall apply.

(3) The scheme made under sub-section (1) shall provide for the minimum features specified in the Schedule I.

(4) The appropriate Government may, within the limits of its economic capacity and development, make provisions for securing work to every adult member of a household under a scheme for any period beyond the period guaranteed, as may be expedited.

5. (1) The appropriate Government may, without prejudice to the conditions specified in the Schedule II, specify in the scheme the conditions for providing guaranteed employment under this Act.

Conditions for
providing
guaranteed
employment.

(2) The persons employed under any scheme made under this Act shall be entitled to such facilities not less than the minimum facilities specified in the Schedule II.

29 of 2019.

6. Notwithstanding anything contained in the Code on Wages, 2019, the appropriate Government may, by notification, specify the wage rate for the purposes of this Act:

Wage rate.

Provided that different rates of wages may be specified for different areas:

Provided further that the wage rate specified from time to time under any such notification shall not be less than rupees three hundred per day.

7. (1) If an eligible applicant for employment under the scheme is not provided such employment within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance in accordance with this section.

Payment of
unemployment
allowance.

(2) Subject to such terms and conditions of eligibility as may be prescribed by the appropriate Government and subject to the provisions of this Act and the Scheme and the economic capacity of the appropriate Government, the unemployment allowance payable under sub-section (1) shall be paid to the applicants of a household subject to the entitlement of the household at such rate as may be specified by the appropriate Government.

(3) Every payment of unemployment allowance under sub-section (1) shall be made or offered not later than fifteen days from the date on which it became due for payment.

(4) The appropriate Government may prescribe the procedure for payment of unemployment allowance under this Act.

Non-entitlement to receive unemployment allowance in certain circumstances.

8. An applicant who—

(a) does not accept the employment provided to his household under a scheme;

(b) does not report for work, or communicate the reason thereof, within fifteen days of being notified by the implementing agency to report for the work; or

(c) continuously remains absent from work, without obtaining a permission from the concerned implementing agency for a period of more than one week or remains absent for a total period of more than one week in any month,

shall not be eligible to claim the unemployment allowance payable under this Act for a period of three months but shall be eligible to seek employment under the scheme at any time.

CHAPTER IV

IMPLEMENTING AND MONITORING AUTHORITIES

Annual Action Plan by Urban Local Body.

9. (1) The relevant Urban Local Body, such as the Nagar Panchayat, Municipal Council, or Municipal Corporation, shall prepare an Annual Action Plan for a financial year in such manner as may be prescribed.

(2) While preparing the Annual Action Plan, the Urban Local Body shall ensure that it includes the following:—

(a) the list of works that are relevant to the development of the area with break-up of labour and material component;

(b) the assessment of labour demand and details of individual works; and

(c) the detailed plan of action to provide employment in accordance with the labour demand including training.

Urban Local Body Level Committee.

10. (1) There shall be a Urban Local Body Level Committee to discuss and finalise the Annual Action Plan received from each Ward:

Provided that while finalising the Annual Action Plan, the concerned field level official of the respective body may be consulted by the committee.

(2) The respective Urban Local Body Level Committee shall undertake the following:—

(a) planning of activities;

(b) receiving, verifying and registering the application for employment registration;

(c) receipt of job application and receipt of date;

(d) disposing of application within fifteen days of receipt;

(e) ensuring timely administrative and technical clearance of projects;

(f) work execution;

(g) maintaining of records;

(h) organising ward councils for social audit;

(i) planning, direction control and evaluation; and

(j) grievance redressal.

(3) The Urban Local Body Level Committee shall be constituted with the following members:—

(a) The respective Additional Secretary in each Corporation or the Secretary in the Municipality as the Executing Officer of the Scheme;

(b) An officer as an assistant to assist the Executing Officer, appointed by the municipality;

(c) City Engineer or Municipal Engineer as the case may be;

(d) Health Officer;

(e) Child Development Project Officer;

(f) Nodal Community Organiser;

(g) City Mission Management Unit Manager; and

(h) such other officials as may be decided by the Executing Officer.

11. (1) The Annual Action Plans of the Urban Local Bodies as well as an Annual Report of all activities undertaken in each Urban Local Body shall be further submitted to the respective District Level Review and Monitoring Committee for vetting and approval.

District Level
Review and
Monitoring
Committee.

(2) A District Level Review and Monitoring Committee under the chairmanship of the Assistant Collector shall be constituted, consisting of such other officers as may be prescribed, which shall perform following functions:—

(a) approve the Annual Report on the implementation of the scheme;

(b) ensure that all Urban Local Bodies in the district are implementing transparently and socially the scheme;

(c) distribute necessary funds for the implementation of the scheme to the Urban Local Bodies; and

(d) ensure complete functioning of the project.

12. (1) The Annual Action Plans of the Urban Local Bodies as well as the Annual Report of all activities undertaken in the respective district shall be further submitted to the respective State Level Review and Monitoring Committee by the District Level Review and Monitoring Committee for review, design and inspection.

State Level
Review and
Monitoring
Committee.

(2) A State Level Review and Monitoring Committee under the chairmanship of the Additional Chief Secretary of the concerned State Government shall be constituted, consisting of such other officers, as may be prescribed, which shall perform following functions:—

(a) quarterly review of the scheme implementation for appropriate interventions to improve the implementation of the scheme and make policy decisions;

(b) decide on new types of activities that can be taken up under the scheme;

(c) provide necessary funds for the implementation of the project to the Urban Local Bodies;

(d) establish a network of professional agencies to provide technical assistance and ensure project execution quality; and

(e) ensure complete functioning of the scheme.

(3) The State Level Review Committee shall submit the reports to the appropriate Government for audit.

CHAPTER V

WORK EXECUTION

Muster Roll.

13. (1) Muster Roll shall be assisgend for the work before each action is initiated which shall be signed by the Scheme Executing Officer.

(2) Each Muster Roll shall have a unique identification number.

(3) Separate Muster Rolls shall be used for each week which includes six days.

(4) Muster Rolls shall be available on the workplace and attendance shall be recorded in real time.

(5) The Muster Rolls shall be kept by the Executing Officer as part of the municipal expenditure records and work file.

(6) The details of the Muster Rolls to be issued shall be kept in the register of the Urban Local Body.

(7) It shall be the responsibility of the concerned engineer or the person who oversees the work that only the work card holder shall be entitled to perform the work:

Provided that no person below the age of eighteen and any other person without Work Card shall be allowed to work.

Mate.

14. (1) A Mate shall be designated from among the workers who shall be trained and assisgend by each Urban Local body to oversee the activites, record the attendance and organise the work.

(2) Each Urban Local Body shall ensure that adequate Mates are identified and trained in each municipality so that they may be assigned work in rotation and the supervision of the training shall be done by the respective Executing Officers of the scheme in each Urban Local Body.

(3) No Mate shall be allowed to work for more than a month continuously to avoid any issue at a later stage.

(4) The ratio of Mate and workers of the work place shall be 1:40:

Provided that if a work place has fewer than forty workers, one worker from them shall be assigned to perform the duty of Mate.

(5) The records of the Muster Roll, without any corrections, shall be maintained by the Mate.

(6) The minimum educational qualification for the Mate shall be eighth standard passed:

Provided that persons belonging to the Scheduled Castes, Scheduled Tribes and widows, abandoned women and disabled women shall be given priority for designation as Mate.

(7) The general duties of the Mate shall be, but not limited to, the following:—

(a) divide the workers into cohesive groups of 5-10 people for easy execution of work and proper calculation of wages;

(b) prepare and maintain the Muster Roll, ensuring the integrity of the information of the Muster Roll and the quality of the work;

(c) ensure workplace amenities; and

(d) public supervision of work.

(8) The Mates are entitled to receive the full wages at the daily wage rate notified for the purpose of the scheme.

(9) If it is found that there has been any mismanagement on the part of the Mate, the Executing Officer shall immediately take action to remove such person after giving reasonable opportunity of being heard and if required, to appoint another Mate.

15. (1) The following activities shall be undertaken before each work under the Scheme is commenced:

Work
Commencement.

(a) every work shall consist of an estimate report to be prepared by the Executing Officer or the person who oversees the work in the vernacular language including each work item, cost of preparation for the workplace, primary care kit, health and hygiene facilities, etc.—

(b) The estimate report shall include the following:—

- (i) human labour days and wages created for Unskilled workers;
- (ii) human labour days and wages for semi-skilled workers;
- (iii) human labour days and wages created for skilled workers; and
- (iv) quantity and cost of goods and its storage;

(c) A project initiation meeting shall be held with all the workers on the site to explain about the details of the work, the quantum of work to be carried out, notified wage rate, the system of payment of wages, etc.;

(d) It shall be ensured that all workers have a bank or post office account; and

(e) The Executing Officer or the person who oversees the work shall make the required tools available and calculate the rental cost of the equipment and record it in the bill.

16. (1) Each Urban Local Body shall be responsible for the provision of work and facilities which may include first-aid kit, clean drinking water, shade and creche, if more than five children under six years of age arrive at the workplace.

Work place
Facilities.

(2) In the case of a creche facility, a registered woman may be charged to look after the children and receive the same wage as the unskilled labourer and such costs may be calculated separately and made into part of the work expenditure.

(3) A redressal mechanism to expedite the grievances shall be set up in each Urban Local Body, in such manner as may be prescribed.

17. (1) The details of each work shall be recorded in a work register.

Project
Completion
Report.

(2) Upon completion of the work, the work completion report shall be prepared and kept in the work register and verified.

(3) The Executing Officer or the person who oversees the work shall be responsible for preparing and completing the work report:

Provided that photographs of each activity at the beginning, middle of the work and after completion shall be recorded in the work completion report.

(4) The Central Government may, in consultation with the Comptroller and Auditor General of India, prescribe appropriate arrangements for audits of the accounts of the schemes at all levels.

CHAPTER VI

FUNDS

Central
Government
to provide
funds.

18. (1) The Central Government shall, after due appropriation made by Parliament by law on this behalf, provide adequate funds for carrying out the purpose of this Act.

CHAPTER VII

POWER TO MAKE RULES

Rule making
Powers of
Central
Government
and State
Governments.

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

(2) Each State and Union Territory Government may, by notification, and subject to the conditions of previous publication, and consistent with this Act and the rules made by the Central Government, make rules to carry out the provisions of this Act.

(3) Every rule made by the Central Government 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 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.

(4) Every rule made by the State or Union Territory 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.

THE SCHEDULE I

[See section 4(3)]

MINIMUM FEATURES OF AN URBAN EMPLOYMENT GUARANTEE SCHEME

1. It is scheme of the Central Government to provide employment opportunities to vulnerable families in urban areas where there is no employment or otherwise.
2. Ensure the social rights of urban poor.
3. Every family member registered in the Urban Local Body shall be given a job card within fifteen days.
4. After receiving the job card, each member whose name in the card may apply for employment in the municipality.
5. Women shall be given priority in providing employment as part of the scheme and fifty per cent. of the total employment opportunities will be for women.
6. Women and men are entitled to equal work and equal pay for homogeneous work in the scheme.
7. If the worker is injured or falls ill on the work place, such worker shall get free medical treatment.
8. In the case of hospitalisation due to a work accident, the worker shall be entitled to get a daily wage of not less than half the allowable wages under the scheme.
9. If a worker is permanently disabled or dies as part of this employment at the workplace, his or her legal heir shall be paid as *ex gratia* of rupees two lakh for accidental death or total disability and rupees one lakh for partial disability.
10. The children accompanied with workers shall be provided with a creche facility.
11. A grievance redressal mechanism shall be established to ensure accountability.
12. All documents and figures that are part of the project shall be public records.
13. Efficient implementation of the project shall be carried out with the help of Online Management information System.

THE SCHEDULE II

(See section 5)

CONDITIONS FOR GUARANTEED URBAN EMPLOYMENT UNDER THE SCHEME AND MINIMUM ENTITLEMENT OF LABOURERS

1. The adult members of every household who—
 - (a) reside in any urban areas; and
 - (b) are willing to do unskilled, semi-skilled and skilled work,may submit their names, age and the address of the household to the Ward in the jurisdiction of which they reside for registration of their household for issuance of a job card.
2. It shall be the duty of the Ward to register the household, after making such enquiry as it deems fit and issue a job card containing such details of adult members of the household affixing their photographs, as may be specified by the State Government in the scheme.
3. The registration made under paragraph 2 shall be for such a period as may be laid in the Scheme, but in any case not less than five years, and may be renewed from time to time.
4. The adult members of a registered household whose name appears in the job card shall be entitled to apply for skilled/semi-skilled/unskilled work under the Scheme.
5. The registered persons belonging to a household shall be entitled to employment in accordance with the Scheme made under the provisions of this Act, for as many days as each applicant may request, subject to a maximum of two hundred and fifty days per household in a given financial year.
6. The Executing Officer shall ensure that every applicant shall be provided work in accordance with the provisions of the Scheme within fifteen days of receipt of an application or from the date he seeks work in case of advance application, whichever is later:

Provided that priority shall be given to women in such a way that at least one-half of the beneficiaries shall be women who have registered and requested for work under this Act.
7. Applications for work shall be for at least fourteen days of continuous work.
8. There shall be a limit of two hundred and fifty days of employment for which a person may apply, or on the number of days of employment actually provided to him subject to the aggregate entitlement of the household.
9. Applications for work may be submitted in writing either to the Executing Officer, as may be specified in the Scheme.
10. The Executing Officer, as the case may be, shall be bound to accept valid applications and to issue a dated receipt to the applicant. Group applications may also be submitted.
11. Applicants who are provided with work shall be so intimated in writing, by means of a letter sent to him at the address given in the job card and by a public notice displayed at the office of the respective Urban Local Bodies.
12. As far as possible, employment shall be provided within a radius of five kilometers of the Urban Local Body where the applicant resides at the time of applying.
13. A new work under the Scheme shall be commenced, only if at least ten labourers become available for such work.
14. In cases the employment is provided outside such radius, it must be provided within the Ward, and the labourers shall be paid ten per cent. of the wage rate as extra wages to meet additional transportation and living expenses.

15. A period of employment shall ordinarily be at least fourteen days continuously with not more than six days in a week.

16. In all cases where unemployment allowance is paid, or due to be paid, the Executing Officer shall inform the District Level Committee in writing the reasons why it was not possible for him to provide employment or cause to provide employment to the applicants.

17. The District Committee shall, in its Annual Report to the State Level Committee, explain as to why employment could not be provided in cases where payment of unemployment allowance is involved.

18. Provision shall be made in the Scheme for advance applications, that is, applications which may be submitted in advance of the date from which employment is sought.

19. Provision shall be made in the Scheme for submission of multiple applications by the same person provided that the corresponding periods for which employment is sought do not overlap.

20. Each Ward shall prepare and maintain or cause to be prepared and maintained such registers, vouchers and other documents in such form and in such manner as may be specified in the Scheme containing particulars of job cards and passbooks issued, name, age and address of the head of the household and the adult members of the household registered with the Ward.

21. Each Ward shall send such a list or lists of the names and addresses of households and their adult members registered with it and supply such other information to the concerned Executing Officer at such periods and in such form as may be specified in the Scheme.

22. A list of persons who are provided with the work shall be displayed on the notice board of the Ward and at the office of the Executing Officer and at such other places as the Executing Officer may deem necessary and the list shall be open for inspection by the State Government and any person interested.

23. If the Ward is satisfied at any time that a person has registered with it by furnishing false information, it may direct the Programme Officer to direct his name to be struck off from the register and direct the applicant to return the job card:

Provided that no such action under this paragraph shall be directed unless the applicant has been given an opportunity of being heard in the presence of two independent persons.

24. If any personal injury is caused to any person employed under the Scheme by accident arising out of and in the course of his employment, he shall be entitled to, free of charge, such medical treatment as is admissible under the Scheme.

25. Where hospitalisation of the injured worker is necessary, the State Government shall arrange for such hospitalisation including accommodation, treatment, medicines and payment of daily allowance not less than half of the wage rate required to be paid had the injured been engaged in the work.

26. If a person employed under a Scheme dies or becomes permanently disabled by accident arising out of and in the course of employment, he shall be paid by the implementing agency an *ex gratia* payment at the rate of rupees two lakh for accidental death or total disability and rupees one lakh for partial disability or such amount as may be notified by the Central Government, and the amount shall be paid to the legal heirs of the deceased or the disabled, as the case may be.

27. The facilities of safe drinking water, shade for children and periods of rest, first-aid box with adequate material for emergency treatment for minor injuries and other health hazards connected with the work being performed shall be provided at the work site.

28. In case the number of children below the age of six years accompanying the women working at any site are five or more, provisions shall be made to depute one of such women workers to look after such children.

29. The person deputed under paragraph 28 shall be paid wage rate.

30. In case the payment of wages is not made within the period specified under the Scheme, the labourers shall be entitled to receive payment of compensation as per the provisions of the Code on Wages, 2019 (29 of 2019).

31. The wages under a Scheme may be paid either wholly in cash or in cash and kind provided that at least one-fourth of the wages shall be paid in cash only.

32. The State Government may prescribe that a portion of the wages in cash may be paid to the labourers on a daily basis during the period of employment.

33. If any personal injury is caused by accident to a child accompanying any person who is employed under a Scheme, such person shall be entitled to, free of charge, such medical treatment for the child as may be specified in the Scheme and in case of death or disablement, through an *ex gratia* payment as may be determined by the State Government.

34. In case of every employment under the Scheme, there shall be no discrimination solely on the ground of gender and the provisions of the Code on Wages, 2019 (29 of 2019), shall be complied with.

STATEMENT OF OBJECTS AND REASONS

There is a growing distress among India's urban poor which has remained largely unaddressed. The statistics show that the rate of unemployment has steadily risen over the past few years, which has been exacerbated due to COVID-19 pandemic. The Government's Periodic Labour Force Survey (PLFS) released by the National Statistical Office (NSO) released on March 14, 2022, reveals that India's urban unemployment rate jumped to 12.6 per cent. in the April-June quarter of 2021 from 9.3 per cent in January-March quarter. The number was much higher (20.8 per cent.) during the first wave of COVID-19 pandemic. Urban females suffered more than urban males- unemployment rate among females stood at 14.3 per cent. compared with 12.2 per cent. for males in April-MGIPMRND—888GI(S3)—8-8-2022.UPLOADED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI-110002 AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI-110054. June quarter 2021. In addition to this, urban poor continue to be affected by India's persistently high inflation, prevalence of low-wage, poor quality and informal work.

India has paved the way in the implementation of employment guarantee programmes with the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) that guarantees one hundred days of work to rural households every financial year. And yet, there is no equivalent of MGNREGA for urban areas despite India having a history of urban employment schemes. One of the most prominent central programmes in this regard was the Swarna Jayanti Shahri Rozgar Yojana (SJSRY) launched in 1997 which provided employment to the unemployed and underemployed urban poor through self-employment and wage employment. The Urban Wage Employment Programme component of SJSRY covered those living below the poverty line in Urban Local Bodies with less than five lakh population. The SJSRY was replaced by the National Urban Livelihoods Mission (NULM) in 2013. However, this programme and its subsequent version, laid more emphasis on self-employment and entrepreneurship, and were not employment "guarantee" schemes.

Recently, the demand for an urban job guarantee has been gaining prominence in political and policy debates in India. With each passing year, more and more State Governments have been introducing new urban employment schemes reinforcing the necessity of one of such in the national level. States such as Madhya Pradesh (Mukhyamantri Yuva Swabhiman Yojana), Kerala (Ayyankali Urban Employment Guarantee Scheme), Odisha (Unnati or Urban Wage Employment Initiative), Jharkhand (Mukhyamantri Shramik Yojana), Himachal Pradesh (Mukhya Mantri Shahri Ajeevika Guarantee Yojna), Rajasthan (Indira Gandhi Shahri Rozgar Guarantee Yojana) and Tamil Nadu (Tamil Nadu Urban Employment Scheme) have been running various schemes which guarantee specific number of days of wage-employment to urban households.

Further, the scheme envisages the 'Right to Life' enshrined under Article 21 of the Constitution of India. The Supreme Court of India has held in multiple cases that the 'Right to Life' also includes the 'right to livelihood' and the 'right to live with human dignity.' A national urban employment guarantee scheme has the potential to transform the structure of the economy as well as contribute significantly to an improved quality of life of millions of people.

Hence, this Bill.

BINOY VISWAM

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides guarantee of employment to every household whose adult members volunteer to do unskilled, semi-skilled and skilled work not less than one hundred days of such work in a financial year. Clause 7 of the Bill provides for payment of unemployment allowance to eligible applicant for employment under the scheme if he has not been provided within fifteen days of receipt of application seeking employment. Clause 18 provides that Central Government shall provide funds for carrying out the purposes of the Bill. The Bill, if enacted, would involve expenditure from the Consolidated Fund of India and it is very difficult to estimate the expenditure at this juncture. A non-recurring expenditure is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 19 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

P. C. MODY,
Secretary-General.