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EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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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 2nd February, 2024:—

BILL NO. XCV OF 2022

A Bill further to amend the Right of Children of Free and Compulsory Education Act, 2009.

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 Right of Children to Free and Compulsory Education (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.

35 of 2009

2. In section 2 of the Right of Children to Free and Compulsory Education Act, 2009, (hereinafter referred to as the principal Act) after clause (g), the following clause shall be inserted, namely,— Amendment of section 2.

“(ga) “health care services and emergency medical aid” means diagnosis, prevention, treatment, cure, or relief of a physical, mental, or behavioural health condition illness, or disease, including mental health and substance use disorders;”.

Amendment
of section 8.

3. In section 8 of the principal Act, after clause (d), the following clause shall be inserted, namely,—

“(da) formulate a scheme within ninety days from the commencement of this Act to provide free health care services and emergency medical aid to every child of the age of six to fourteen years, including a child referred to in clause (d) or clause (e) of section 2, during the course of education;

Explanation 1.—The term “course of education means the time during which a child is present at an educational institution for education or education related activities;

Explanation 2.—Notwithstanding anything contained in any law for the time being in force this clause shall apply to school as defined under this Act.”.

Insertion
of new
section 19A.

4. After section 19 of the principal Act, the following new section shall be inserted, namely,—

Duty of
school.

“**19A.** It shall be the duty of every school, as defined under this Act, to provide health care services and emergency medical aid to all children who have been enrolled as a student of thier institution during the course of education, in a manner as may be prescribed.”.

Insertion
of new
section 35A.

5. After section 35 of the principal Act, the following new section shall be inserted, namely,—

Penalty.

“**35A.** Any school or person who fails to comply with the provisions of clause (da) of section 8 or section 19A, shall be punishable with a fine which may extend up to five lakh rupees.”.

STATEMENT OF OBJECTS AND REASONS

The right to health is an inalienable right enshrined under the Constitution of India, a corollary right which shall be protected by the State in its *parens patriae* role. The value of right to health can be explained at its best from a Kantian perspective, which says that, every human being has an intrinsic worth which makes them valuable above all price.

Right to education also became a Constitutional as well as a statutory right which got realised by the Right of Children to Free and Compulsory Education Act, 2009.

Albeit the fact that right to education are logical corollaries and complementary to each other, right of a child to health care services and emergency medical aid during education is silent in the present laws. As a universal principle, educational right can be enjoyed by a child with good health, which can only be realised by right to health care services and emergency medical aid during the course of education.

The Bill therefore proposes to insert, in Right of Children to Free and Compulsory Education Act, 2009 provisions for free health care services and emergency medical aid to every child of the age of six to fourteen years.

Hence, this Bill.

A.A. RAHIM.

BILL NO. VIII OF 2023

A Bill further to amend the Constitution of India.

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

Short title and commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2023.

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

General.

2. In the Constitution, for the word "Chairman", wherever it occurs, the word "Chairperson", shall be substituted.

Amendment of article 371A.

3. In article 371A of the Constitution, in sub-clause (d) of clause (1), in the proviso to paragraph (i), for the word "Vice-Chairman", the word "Vice-Chairperson", shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The discriminatory approach on the basis of gender, either expressively or impliedly, is not appreciated in the modern egalitarian society. India, being a nation with higher constitutional values on equality, particularly on gender, have a greater role in setting a model for the gender inclusive approach in letter and spirit. In this context, the State, legislature and the law, should all reflect the comprehensive and inclusive approach towards gender, particularly in relation to women and transgenders.

2. It is also to be noted that the Indian representatives have succeeded in changing the draft proposal of article 1 of the United Nations Declaration on Human Rights (UDHR) in 1948, from "All men are born free and equal" to "All human beings are born free and equal" with much gender-neutral consciousness even imbibed in the literal manifestations. But this spirit of literal manifestation of gender neutrality has not reflected in several provisions in the Constitution of India, except certain amendments made to it in the later period.

3. Article 51A(e) of the Constitution of India also provides that it shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women. This value has to be reflected in its true sense of literal articulations in the Constitution itself, in a more inclusive and convincing manner.

4. The legislative intent at the time of passing of the Constitution was very clear as to renouncing of practices which are derogatory to the dignity of women and transgenders. But in the present context, this constitutional aspiration has to be supplemented through express articulations. An explicit mandate will provide more confidence and recognition to women and transgenders. Hence, a gender neutral and gender inclusive language need to be introduced in the Constitution of India.

5. The skewed gender terminologies used to address certain constitutional offices need to be amended at par with the inclusive gender-neutral terminologies as adopted in the recent enactments including constitutional amendments and statutes.

6. The Bill seeks to achieve the above objective.

A.A. RAHIM.

BILL NO. XVIII OF 2023

A Bill further to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

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

Short title and commencement. **1.** (1) This Act may be called the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (Amendment) Act, 2023.

(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 the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (hereinafter referred to as the principal Act), in section 2, in clause (c) of sub-section (1), the following words shall be omitted, namely:—

"(iva) a multi-State co-operative bank; or".

3. In the principal Act, after section 31A, the following new sections shall be inserted, namely,—

Insertion of new sections 31B and 31C.

"31B. Notwithstanding anything contained in this Act, co-operative banks or any other financial institutions established under any State Act, shall be excluded from the operation of this Act.

Exclusion of co-operative banks or any other financial institution established under any State Act from operation of the Act.

31C. Notwithstanding anything contained in this Act, the provisions of this Act shall not apply,—

Exemption of certain debts.

(i) in the event of default by a borrower who has taken financial assistance for an amount not exceeding ten lakh rupees; or

(ii) in the event of default by a borrower, when his debt security is the only dwelling unit or house in the ownership of the borrower and his family, in India or elsewhere,".

STATEMENT OF OBJECTS AND REASONS

All States in the country are affected by debt related suicides of farmers and other members of society. The approach in debt recovery as per the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is more stringent and common people are left with no choice other than forced internal displacement and homelessness. The agriculture sector is also affected when the farmers are forcefully evicted due to this practice. The basic objectives of housing schemes are also thwarted because of the present provisions of the Act.

2. This Bill seeks to address the above social issue at hand by providing a balancing relief to the small debtors and farmers. It also intends to exclude the co-operative banks and other financial institutions established under a State enactment, so that the States can redress the issue by working out different solutions including the rehabilitation of debtor in the case of bona fide default through a housing scheme or otherwise.

3. The Bill seeks to achieve the above objectives.

A.A. RAHIM

BILL NO. CIV OF 2022

A Bill to provide for social, political and economic rehabilitation of Kashmiri Pandits, protection of their property, restoration of their cultural heritage, ensuring their safety and security, provision of rehabilitation and resettlement package to them 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 Kashmiri Pandits (Recourse, Restitution, Rehabilitation and Resettlement) 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.

Definitions.

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

(a) 'Advisory committee' means the Advisory Committee constituted under section 3;

(b) 'Government' unless stated otherwise means the Government of India;

(c) 'Kashmiri Pandit' means any individual registered as a domiciled Kashmiri and follows the culture, religious texts and way of life as practiced by the Kashmiri Pandit community or meets such criteria as decided by the Advisory Committee.

Advisory Committee.

3. (1) The Central Government, as soon as may be, by notification in the Official Gazette, constitute an Advisory Committee which may be consulted by the Government for carrying out the purposes of this Act.

(2) The Advisory Committee shall consist of the following:—

(i) twenty-one representatives of the Kashmiri Pandit Community with at least three Members drawn from the Global Kashmiri Pandit Diaspora, out of which, at least one Member shall be a woman;

(ii) two representatives of non-Kashmiri Pandit minorities of the Kashmir valley:

Provided that out of the total membership of the Advisory Committee, at least twenty five per cent. but not more than fifty per cent. of Members shall be women.

(3) The Advisory committee shall have such adequate powers as may be prescribed, in order for it to be able to effectively represent the best interest of the Kashmiri Pandit community as stated in the Global Kashmiri Pandits Diaspora Unified Declaration to the Prime Minister to assert the right for return, rehabilitation and restitution and advise the Government accordingly.

CHAPTER II

DOMICILE

Domicile certificate.

4. (1) The Government shall issue certificates of domicile to any such person who—

(i) is registered as migrant by the Relief Commissioner (Migrants), Government of Jammu and Kashmir;

(ii) is eligible as per criteria mentioned under rule 5 of the Jammu and Kashmir Grant of domicile Certificate (Procedure) Rule, 2020;

(iii) is related biologically or through birth lineage or marriage or adoption or a culturally mandated kinship ritual has an ancestor who was a resident of the undivided State of Jammu and Kashmir as on May, 1944;

(iv) can prove that their ancestor as referred under clause (iii) of this sub-section migrated out of Kashmir prior to May, 1944 and maintained their connectivity with the Kashmiri Pandit Community through its *samskaras* of birth, sacred thread marriage, death, *shradda* rituals and is recommended by the Advisory Committee; and

(v) any individual who is a member of the Saraswat community who can demonstrate with reasonable antecedents that their ancestor as referred to under clause (iii) of this sub-section migrated out of Kashmir prior to May, 1944 and is deemed as necessary to the prevention of the extinction of the Kashmiri Pandits and is recommended by the Advisory Committee.

(2) The Government may make rules and issue further clarifications regarding issue of domicile certificates in consultation with a Committee headed by the Chief Secretary of the Union Territory of Jammu and Kashmir and comprising a team of five officials as appointed by him which shall be set up within one month from the date of commencement of this Act.

(3) A web portal, along with a help desk, shall be developed for the purpose of submission of applications and relevant documents for the issuance of domicile certificates.

(4) The Government of the Union Territory of Jammu and Kashmir shall appoint in each district, a district level task force headed by the District Magistrate and comprising all Sub-Divisional Magistrates of the district, which shall be responsible for devising and executing mechanisms for issuance of domicile certificates in a time bound manner and shall submit a status report to the Chief Secretary every month, in such manner as may be prescribed and updated the same on the portal.

(5) An application received under this section shall be processed within one working day from the date of submission.

CHAPTER III

SOCIAL, POLITICAL AND ECONOMIC REHABILITATION

5. (1) In order to create social, political and economic conditions that are conducive to an environment of safety and honour to all domiciled Kashmiri Pandits either living in the camps or willing to return back and resettle, the Government shall take appropriate measures that may include—

Measures to ensure social, political and economic rehabilitation.

19 of 1992.

(i) grant of minority status to Kashmiri Pandits in terms of clause (c) of section 2 of the National Commission for Minorities, Act, 1992, within two months from the date of enactment of this Act and also make available to them all positive affirmations which are available to other religious minorities;

(ii) declaration of Kashmiri Pandits as victims of genocide and change their official nomenclature to 'Internally Displaced Persons' with immediate effect;

(iii) release of a white paper on the issue of Kashmiri Pandits documenting all events in the Kashmir valley pertaining to the atrocities and plight of the Kashmiri Pandits starting from the year 1988 till the enactment of this Act, within three months from the date of enactment of this Act, to be prepared by a high level committee comprising the following—

(a) retired Chief Justice of India as the Chairman;

(b) two retired judges of the Supreme Court of India—Members;

(c) two sitting Members of Parliament as nominated by the Advisory Committee—Members;

(d) two former Members of Parliament as nominated by the Advisory Committee—Members;

(e) four sitting or former Members of Legislature/Council of Jammu and Kashmir as nominated by the Advisory Committee—Members; and

(f) four other individuals as may be nominated by the Advisory Committee—Members.

(iv) the high level committee as referred to under clause (iii) of this sub-section shall rely on depositions given by witnesses and lay special focus on the Reports and judgments of the Supreme Court and the High Courts of India, National Human Rights Commission, Reports of any Parliamentary Standing Committees and sub-committees set up for the purpose of examining the issue of Kashmiri Pandits.

(2) the Government, in consultation with the Advisory Committee, shall take all measures as recommended by the Delimitation Commission, to ensure enhanced political representation of Kashmiri Pandits across panchayats, Union Territory Legislative Assembly and Parliament which shall include but not limited to the following—

(i) to ensure political franchise and to further the right of political participation, a mechanism shall be created for enrolment of all migrant Kashmiri Pandits as voters and provide reserved seats in proportion to their numerical strength in local and Union Territory legislative bodies; and

(ii) provide all registered or domiciled Kashmiri Pandits, their right to vote for the candidate of their choice through a system of postal ballot.

(3) The Government, in consultation with the Advisory Committee, shall take such measures as may be necessary to establish an environment of economic justice, prosperity and security, for Kashmiri Pandits and other religious minorities to explore opportunities of growth and stability upon their return, which shall include but not limited to the following—

(i) an appropriate corpus fund for the purpose of grants to be given to five thousand small or cottage industries owned by Kashmiri Pandits shall be created within one month from the date of enactment of this Act;

(ii) land and other capital expenditure as may be necessary for such small or cottage industries shall be provided by the Government of the Union Territory of Jammu and Kashmir;

(iii) interest free loans for setting up micro, small and medium enterprises shall be given without collateral requirement on a fifty percent loan and fifty percent grants basis;

(iv) direct and indirect taxes shall be waived off for the first five years of establishment of any business;

(v) in order to enhance ease of doing business a single window facilitation service shall be setup and all licensing and other approval to new businesses shall be made available through this single window within one week of application;

(vi) promote women Self-Help Groups in every village and a grant amount, as decided by the Government in consultation with the Advisory Committee, shall be disbursed to each Self-Help Group; and

(vii) in addition to the schemes or programmes of the Union Territory Government and the Central Government, the Government in consultation with the Advisory Committee, shall take such measures as may be necessary to promote entrepreneurship and self-employment of Kashmiri Pandits.

(4) To enhance employment opportunities for migrant youth who are either already living in Jammu and Kashmir or willing to return and resettle, the Government shall—

(i) create, within three months from the date of enactment of this Act, ten thousand direct employment opportunities to be accommodated within the Union Territory and to be filled up by only migrant or domiciled Kashmiri Pandits;

(ii) The financial burden for the employment under clause (i) shall be shared by the Union Territory Government and the Central Government in such proportion as may be decided by the respective Governments;

(iii) in consultation with the Advisory Committee, decide upon a quota of reservation and eligibility criteria for migrant or domiciled Kashmiri Pandits, in Union Territory and Central Government jobs which shall not be less than ten percent.

(5) In order to mitigate the hardships on educational front for the wards of Kashmiri Pandits, the Government in consultation with the Advisory Committee, shall take necessary steps to—

(i) ensure relaxation for the wards of Kashmiri Pandits in cut-off percentage, as may be suitable, across all State and Central Government institutions of higher education;

(ii) reserve seats for the wards of Kashmiri Pandits across all State and Central Universities in such a proportion as may be decided by the Government and Advisory Committee within three months of enactment of this Act;

(iii) waive off domicile requirements for the wards of Kashmiri Pandits;

(iv) create Special Education Fund for providing scholarships to wards of Kashmiri Pandits on a merit need basis.

(6) The Government of the Union Territory of Jammu and Kashmir and the Central Government, in consultation with the Advisory Committee, shall sanction a reasonably enhanced medical allowance to those who are economically weak and in need of medical attention as well as provide insurance coverage to all Kashmiri Pandits.

(7) The provisions of sub-section (1) to (6) of this sections shall be applicable to all Kashmiri Pandits, including those living in the camps.

CHAPTER IV

PROTECTION OF PROPERTY

6. (1) The Government shall make necessary provision to restore ownership of private property of Kashmiri Pandits and to resolve conflicts of land grabbing, illegal occupancy, encroachment, etc.

Measures to protect private property of Kashmiri Pandits.

(2) The Government shall constitute a bloc-level team headed by the Divisional Commissioner in order to carry out the following purposes—

(i) all encroachments shall be vacated and details of land records shall be published online within three months from the date of enactment of this Act and the District Magistrate shall take over possession of the property for its safety and prevent and further illegal occupancy;

(ii) all the properties, movable and immovable, sold by the displaced persons after the financial year 1989-1990, shall be declared as "Distress Sales" null and void and accordingly restore possession of the properties back to the respective Kashmiri Pandits who were the recorded owners;

(iii) ensure that provisions of the Jammu and Kashmir Migrants Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997 and the Jammu & Kashmir Migrants (Stay of Proceedings) Act, 1997 are implemented in letter and spirit.

16 of 1997.
17 of 1997.

(3) The Government, in consultation with the Advisory Committee, shall appoint a Custodian Committee consisting of representatives from the Ministry of Home Affairs, Government of India, Government of the Union Territory of Jammu and Kashmir and representatives of the Kashmiri Pandit Community, as nominated by the Advisory Committee, to act as the custodian of properties of Kashmiri Pandits till land records are settled and rights handed over to the owners.

(4) All appeals and complaints shall be looked into and resolved by the Custodian Committee as constituted under sub-section (3) of this section and the Committee shall have the powers of a Civil Court.

(5) An extensive survey shall be done to ascertain the market value of all the immovable property of Kashmiri Pandits and an estimate be made about the value of the damage done to their properties.

CHAPTER V

RESTORATION OF TEMPLES AND OTHER HERITAGE SITES

7. (1) Within one month of enactment of this Act, the Government, in consultation with the Advisory Committee, shall constitute a Committee comprising of historians, archeologists, individuals from the Bhat Memorial Society and other representatives of Kashmiri Pandit community, to identify all old temples and other heritage or spiritual sites including ashrams, *maths*, holy springs, endowments, schools, *ghats*, cremation grounds, hillocks, connected to the spiritual and cultural ethos of the Kashmiri Pandits.

Measures to restore religious places and other heritage belonging to Kashmiri Pandits.

(2) The Committee set up under sub-section (1) of this section shall appoint a Special Officer who shall be empowered to call for any information, document or record from any Government functionary or any other person or authority, as may be considered necessary for conducting the survey of the religious sites and shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1973 in respect of the following matters, namely:

2 of 1974.

- (i) summoning and examining of witnesses;
- (ii) requiring the discovery and production of any document;
- (iii) requisitioning any public from any court or office;
- (iv) issuing commissions for the examination of witnesses or documents; and
- (v) making any local inspection and investigation.

(3) The Special Officer, after making such inquiry as he deems necessary, shall submit a report to the Committee constituted for the purpose under sub-section (1) of this section containing the following particulars—

- (i) name of the shrine or religious place;
- (ii) location with full address;
- (iii) description of the shrine or religious place including its property;
- (iv) present status of the shrine of place;
- (v) ownership details of the shrine property;
- (vi) legal status of the organization holding the control of the shrines or religious place and its property;
- (vii) reference to the revenue records, hereunder the property stands registered;
- (viii) the gross income of the shrine for preceeding three years; and
- (ix) such other particulars relating to each shrine or religious place as may be considered necessary to be mentioned by the Special Officer.

(4) The Government, in consultation with the Advisory Committee, shall by notification in the official Gazette, publish the details of the shrines or religious places as reported by the special officer.

(5) Upon identification and notification of the sites, the Government shall evict any squatters, as may be necessary to rebuild and restore the sites and begin reconstruction of these sites within one month of such notification.

(6) The Government shall sanction a separate budget for the reconstruction and development of the sites, as notified under sub-section (4).

(7) A Board to be known as the Kashmiri Hindu Shrines Board on the lines of Shri Mata Vaishno Devi Shrine Board and Shri Amarnathji Shrine Board shall be set up in accordance with provision of the Religious Endowments Act, 1863.

20 of 1863.

CHAPTER VI

SAFETY AND SECURITY OF KASHMIRI PANDITS

8. (1) The Government shall issue necessary orders to declare the Kashmiri Pandit community and other religious minorities as an 'at risk population' and make necessary security arrangements from the perspective of risk assessment, monitoring threats, providing capability to protect life and ability to enjoy liberty in the pursuit of happiness and fulfillment.

(2) In order to ensure safety and security of every Kashmiri Pandit in the Union Territory of Jammu and Kashmir, the Government shall take the following measures for:—

Measures to ensure safety and security of Kashmiri Pandits.

(i) increasing the strength of police force in the Union Territory and inducting three thousand men and women security personnel belonging to the Kashmiri Pandit community and other religious minorities, across pay grades;

(ii) setting up of a nodal Union Territory level Kashmiri Pandit Security Task Force comprising of such high ranking security officials from the State police force, paramilitary and military, as may be decided by the Government in consultation with the Advisory Council within three months from the date of the enactment of the Act;

(iii) the Task Force set up under clause (ii) shall be given executive and judiciary powers to take necessary steps with an orientation of strengthening law and order and security situation concerning Kashmiri Pandits;

(iv) issuing arms license to at least one member each of family of domiciled Kashmiri Pandits; and

(v) creation of a corpus fund to be known as the 'security related expenditure fund' of such an amount to be decided by the Task Force set up under clause (ii).

CHAPTER VII

INQUIRY COMMISSION

9. (1) The Government shall set up an enquiry commission, within one month from the date of enactment of this Act to investigate into genocide and mass exodus of Kashmiri Pandits from their homeland.

(2) The Inquiry Commission shall have prosecutorial power and the powers to appoint Judicial Tribunal.

(3) This Judicial Tribunal appointed under sub-section (2) shall have the authority to establish the causal factors responsible for the genocide of Kashmiri Pandits and bring the perpetrators to justice.

(4) the Inquiry Commission shall consist of the following:—

(i) A retired Chief Justice of Supreme Court—Chairperson;

(ii) two retired judges of High Court of Jammu and Kashmir—Members;

(iii) four serving senior security officials from the Union Territory police, intelligence, paramilitary and military forces engaged in anti-terror activities, as may be nominated by the Government in consultation with the Advisory Committee—Members;

(iv) four retired senior security officials from the Union Territory police, intelligence, paramilitary and military forces who served the region during the time of atrocities on Kashmiri Pandits—Members;

(v) a senior religious figure to be nominated by the Advisory Committee—Member; and

(vi) four representatives of Kashmiri Pandit Community as nominated by the Advisory Committee—Members.

Inquiry Commission to investigate atrocities against Kashmiri Pandits.

CHAPTER VIII

REHABILITATION AND RESETTLEMENT PACKAGE

10. (1) A separate consolidated land area shall be identified within three months from the date of enactment of this Act, and land shall be allocated to each family of domiciled Kashmiri Pandits either living in camps or willing to re-settle in such manner as may be prescribed;

(2) A lump-sum amount, as may be decided by the Government, in consultation with the Advisory Committee, shall be given to each family willing to re-settle or presently living

Rehabilitation and resettlement package for Kashmiri Pandits.

in Jammu and Kashmir for construction of houses and other expenditures for re-settlement; and

(3) A cash relief of rupees five thousand per person, subject to a ceiling of twenty thousand rupees per family be given every month to all Kashmiri Pandits, in such manner as may be prescribed which shall be subject to revision every three years.

CHAPTER IX

ADVISORY COUNCIL

Advisory
Council.

11. (1) The Government shall constitute a Council to be known as the Advisory Council of Kashmiri Pandits comprising the following—

(i) Representatives having a distinguished track record of service in key Kashmiri Pandit community organizations;

(ii) Kashmiri Pandits having a strong track record of public service; and

(iii) Kashmiri Pandits who individually have made and are capable of making impactful contributions towards the rehabilitation of the community.

(2) The Advisory council established under sub-section (1) shall recommend suitable measures for rehabilitation of Kashmiri Pandits to the Advisory Committee, in such manner as may be prescribed.

CHAPTER X

MISCELLANEOUS

Power to
make rules.

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

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

STATEMENT OF OBJECTS AND REASONS

Thirty-two years ago, what took place in Kashmir on the night of January 19, 1990 lives fresh in the mind of Kashmiri Pandits as a night of barbarism, terror and mass killings, Kashmiri Pandits suffered the horrors of genocide and exodus at the hands of militants, thousands were brutally killed, women were raped, houses and temples burnt, lives disrupted. This inhumane attack on the life and honour of a minority population, who were inhabitants of the region for thousands of years, led to a complete breakdown of law and order and forced them to leave their motherland, their culture, and their homes behind. Most could never return. Over six lakh Kashmiri Pandits still live in exodus and yearn to return and resettle in their motherland.

2. Over the years, little effort has been made to undo the injustice that the Kashmiri Pandits have suffered. Rehabilitation and resettlement of the Kashmiri Pandits is an expansive process integrating various aspects of life, liberty, dignity, security, and political participation, economic and social well-being. Kashmiri Pandits are forced to live as migrants in their own country. Whereas efforts have been made to restore *kashmiriyat* and cultivate an environment of peace, tranquility and prosperity in the region to do so without the active participation of Kashmiri Pandits and other religious minorities shall result in furthering the historic injustice.

3. This Bill seeks to bridge the gap between the expectations of the Kashmiri Pandits and the offerings of the Government by creating an ecosystem of Government support alongwith empowering the community with regards to their rehabilitation and resettlement in the region. The Bill ventures to offset any social, economic and political disadvantages, which are a result of decades of systemic neglect and injustice. The Bill also seeks to give power in the hands of the Kashmiri Pandits themselves, as their opinion of what is best for them matters the most. This Bill further attempts to bring the perpetrators of violence and genocide to justice.

4. The following words of the legendry Kashmiri poet Shri Dinanath Kaul 'Nadim' painting the idea of a nation where no one is divided on the basis of religion and everyone is identified as human beings, rings close in the heart of every Kashmiri Pandit as they dream of re-uniting with their '*Myon Vatan*':

"Son watan, gulzar Shalimar hyuv, Dal manj, folwoon Pamposhhyuv, navjawan an hund, wushunkhumarhyuv, myonwatan, hyonwatan, son watan, nundwonwatan".

Hence, this Bill.

VIVEK K. TANKHA.

FINANCIAL MEMORANDUM

Clause 5 *inter alia* provide for measures to be taken by the Central Government for economic rehabilitation of Kashmiri Pandits. Clause 7 *inter alia* provides for separate budget for development of community assets of Kashmiri Pandits, and for setting up of the Kashmiri Hindu Shrine Board. Clause 8 *inter alia* provides for measures involving expenditure to ensure safety and security of Kashmiri Pandits. Clause 10 provides for rehabilitation and resettlement package for Kashmiri Pandits.

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

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out in the purposes of the Bill.

2. As the rules will relate to matters of details only, the delegation of legislative power is of normal character.

BILL NO. XLIX OF 2023

A Bill to provide adequate protection and assistance to witnesses in criminal cases and to establish a procedure and mechanism to provide such protection and for matters connected and incidental thereto.

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

Short title and commencement.

1. (1) This Act may be called the Witness Protection Act, 2023.

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

Definitions.

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

(a) "appropriate Government" means in case of a State, the Government of that State and in the case of Union Territories, the Union Territory Administration or the Central Government, as the case may be;

(b) "Competent Authority" means the Witness Protection Authority constituted under section 3;

(c) "concealing of identity of the witness" means and includes any condition prohibiting publication or revealing, in any manner, directly or indirectly, of the name, address and other particulars which may lead to the identification of the witness during investigation, trial and post-trial stage;

(d) "court" means the court having the jurisdiction for trying the offence where the witness is to tender evidence;

(e) "family member" includes parents or guardian, spouse, live-in partner, children, grandchildren of the witness;

(f) "in camera proceedings" means proceedings wherein the Competent Authority or Court allows only those persons who are necessarily to be present while hearing and deciding the witness protection application or deposing in the court;

(g) "Live Link" means and includes a live video link or other such arrangement which enables a witness, while not being physically present in the courtroom, for deposing in the matter or interacting with the Competent Authority;

(h) "Offence" means those offences which are punishable with death or life imprisonment or an imprisonment up to seven years and above and also offences punishable under Section 354, 354A, 354B, 354C, 354D and 509 of IPC;

(i) "prescribed" means prescribed by the rules or regulations made under this Act;

(j) "Threat Analysis Report" means a detailed report prepared and submitted by the Head of the Police in the District investigating the case with regard to the seriousness and credibility of the threat perception to the witness or his family members; containing therein specific details about the nature of threats faced by the witness or his family to their life, reputation or property apart from analyzing the extent, the person or persons making the threat, have the intent, motive and resources to implement the threats;

(k) "witness" means any person, who possesses information or document about any offence;

(l) "Witness Protection Cell" means a dedicated Cell of State or Union Territory or Central Police Agencies established under section 5 of the Act, assigned with the duty to implement the witness protection order;

(m) "Witness Protection Fund" means the fund established under section 6 of the Act, for bearing the expenses incurred during the implementation of Witness Protection Order passed by the Competent Authority under this Act;

(n) "witness protection measures" means measures mentioned in section 10 of the Act;

(o) "Witness Protection Order" means an order passed by the Competent Authority detailing the witness protection measures to be taken.

3. (1) The appropriate Government shall, by an order, constitute a Standing Committee to be known as Witness Protection Authority (hereinafter to be referred to as the Competent Authority), in every district there under, for implementing the provisions of this Act.

Witness
Protection
Authority.

(2) The Competent Authority, shall comprise of the following, namely:—

(a) a District or Sessions Judge having jurisdiction in the district as the Chairperson *ex-officio*;

(b) the Head of the Police in the district as a Member *ex-officio*; and

(c) the Head of the Prosecution in the District as the Member Secretary *ex-officio*.

(3) The procedure for the Competent Authority to conduct meetings and proceedings under this Act and passing witness protection orders, the terms and conditions of service of the Chairperson and members of the Competent Authority and other such incidental matters, shall be regulated in such manner as may be prescribed.

(4) The Competent Authority shall ensure confidentiality and privacy in all matters relating to the identification and protection of witnesses, and also ensure that sensitive information is securely handled and disclosed only on a need-to-know basis to authorized personnel involved in the witness protection process.

Powers of the
Competent
Authority.

4. Every Competent Authority shall exercise the following powers in the discharge of its functions, namely:—

(i) pass witness protection orders, including but not limited to relocation, change of identity and provision of necessary security measures, to witnesses who qualify for protection under the Act;

(ii) assess and evaluate the eligibility of witnesses for availing witness protection measures, considering factors such as the nature of the case, level of threat faced by the witness and the witness's cooperation in criminal proceedings;

(iii) determine the appropriate level of protection required for witnesses, taking into account the specific circumstances of each case, the assessed level of threat and the available resources;

(iv) develop and establish comprehensive protection plans tailored to suit the individual needs and circumstances of each protected witness, ensuring the adequate implementation of security measures and other necessary provisions;

(v) collaborate and engage with relevant law enforcement agencies, judicial bodies and other authorities to facilitate the effective implementation of witness protection measures, including coordination in relocation, provision of security personnel and communication between concerned parties;

(vi) monitor and enforce compliance with the witness protection orders, ensuring that all parties involved, including protected witnesses, law enforcement agencies and other relevant entities, adhere to the provisions outlined in the Act and comply with the established protection plans;

(vii) request assistance from other jurisdictions, within India for the purpose of providing effective protection to witnesses, including cooperation in relocation, sharing of intelligence and mutual legal assistance; and

(viii) periodically review and modify protection arrangements for witnesses, taking into consideration any changes in circumstances, emerging threats, or other relevant factors, in order to ensure ongoing and adequate protection:

Provided that the exercise of the aforementioned powers by the Competent Authority shall be in accordance with the provisions of the Act, any orders or regulations framed thereunder and within the framework of applicable laws and principles of natural justice.

Witness
Protection
Cell.

5. (1) The appropriate Government shall constitute a Witness Protection Cell comprising of such number of officers and staff, as may be prescribed.

(2) The Witness Protection Cell shall be headed by an officer not below the rank of DIG, Police, who shall be designated as Director, Witness Protection Cell.

(3) It shall be the duty of the Director to—

(a) provide strategic direction and leadership to the Cell in the implementation of the provisions of the Act;

(b) develop and execute policies, protocols and procedures for the effective functioning of the Cell and ensure compliance with applicable laws and regulations;

(c) manage and supervise the activities of the Cell, including the assessment of witness eligibility, coordination of protection measures and liaison with relevant stakeholders;

(d) oversee the creation and maintenance of a secure and confidential database for the documentation of protected witnesses, protection plans and associated information; and

(e) facilitate training programs and capacity building initiatives for the officers and staff of the Witness Protection Cell and relevant stakeholders to enhance their knowledge and skills in witness protection.

(4) Whenever a vacancy arises in the position of Director, the senior most Officer of the Witness Protection Cell shall discharge the duties of the Director, until a new Director is appointed, as prescribed.

6. (1) The appropriate Government shall establish a Fund, namely, the Witness Protection Fund, from which the expenses incurred for the implementation of the witness protection order passed by the Competent Authority and other expenditure related to implementation of the provisions of the Act, shall be met.

Witness
Protection
Fund.

(2) The Fund shall comprise of the following, namely—

(a) Budgetary allocation made in the Annual Budget by the appropriate Government;

(b) receipt of amount of costs imposed / ordered to be deposited by the courts/ tribunals in the Witness Protection Fund;

(c) donations/ contributions from philanthropists/ charitable Institutions/ Organizations and individuals permitted by the Government;

(d) funds contributed under corporate social responsibility by companies as per section 135 of the Companies Act, 2013.

18 of 2013.

(3) The said Fund shall be operated by the Department/Ministry of Home under the appropriate Government, as the case may be and the District Magistrate or any other officer nominated by him shall have the right of disbursing the amount distributed from the level of the appropriate Government to each district thereunder.

7. (1) A witness shall be eligible for availing witness protection measures, if the witness has provided or is likely to provide information or evidence in a criminal proceeding or an investigation and is or may be at risk of harm as a result of their cooperation;

Eligibility and
classification
of witnesses.

(2) Depending upon the level of threat perception, the witnesses can be categorised as follows—

(a) Category 'A': Where the threat extends to life of witness or his family members, during investigation/trial or thereafter;

(b) Category 'B': Where the threat extends to safety, reputation or property of the witness or his family members, during the investigation/trial or thereafter;

(c) Category 'C': Where the threat is moderate and extends to harassment or intimidation of the witness or his family member's, reputation or property, during the investigation/trial or thereafter.

8. (1) The application for seeking protection order under the Act shall be filed in such manner and form, as may be prescribed before the Competent Authority of the district concerned where the offence is committed, through its Member Secretary along with supporting documents, if any.

Filing of
Witness
Protection
Application
before the
Competent
Authority.

(2) The application can be submitted to Competent Authority by:—

(a) the witness or his family member;

(b) the officer investigating the concerned crime; or

(c) upon a direction issued by the court having the jurisdiction to try the said offence.

Procedure for processing the application.

9. (1) As and when an application is received by the Member Secretary of the Competent Authority, in the prescribed form, he shall forthwith pass an order for calling for the Threat Analysis Report from the Assistant Commissioner of Police or Deputy Superintendent of Police (ACP/DSP) in charge of the concerned Police Sub Division investigating the case.

(2) Depending upon the urgency in the matter owing to imminent threat, the Competent Authority may pass orders for interim protection of the witness or his family members during the pendency of the application:

Provided that nothing shall preclude police from providing immediate protection in case of grave and imminent threat to the life of applicant and his family members.

(3) The Threat Analysis Report shall be prepared expeditiously by the concerned ACP/DSP while maintaining full confidentiality and it shall reach the Competent Authority within five working days of receipt of the order.

(4) The Threat Analysis Report shall categorize the threat perception and also include suggestive protection measures for providing adequate protection to the witness or his family.

(5) While processing the application for witness protection, the Competent Authority shall also interact preferably in person and if not possible through electronic means with the witness and/or his family members/employers or any other person deemed fit so as to ascertain the witness protection needs of the witness.

(6) All the hearings on Witness Protection Application shall be held in-camera by the Competent Authority while maintaining full confidentiality.

(7) An application shall be disposed of by the Competent Authority within five working days of receipt of Threat Analysis Report from the Police Authorities and a Witness Protection Order may be passed by the after determining the category of witness on the basis of Threat Analysis Report.

(8) The Witness Protection Order passed by the Competent Authority shall be implemented by the Witness Protection Cell of the State or the Union Territory, as the case may be:

Provided that the Witness Protection Order passed by the Competent Authority for change of identity and/or relocation shall be implemented by the Department/Ministry of Home of the concerned State or Union territory, as the case may be.

(9) The overall responsibility of implementation of all Witness Protection Orders passed by the Competent Authority shall lie on the Head of the Police in the State or the Union Territory, as the case may be.

(10) The Witness Protection Cell shall file a monthly follow-up report before the Competent Authority in the prescribed format.

(11) In case, the Competent Authority finds that there is a need to revise the Witness Protection Order or an application is moved in this regard by any of the persons indicated in sub-section (2) of section 8 and upon completion of trial, a fresh Threat Analysis Report shall be called from the ACP/DSP in charge of the concerned Police Sub-Division and on receipt thereof, further order, as deemed appropriate, shall be passed by the Competent Authority based on the Threat Analysis Report.

Types of witness protection measures.

10. (1) The witness protection measures ordered shall be proportionate to the threat and shall be for a specific duration not exceeding three months at a time.

(2) The witness protection measures may include the following,—

(a) ensuring that witness and accused do not come face to face during investigation or trial;

(b) monitoring of mail and telephone calls;

(c) making arrangement with the telephone company to change the witness's telephone number or assign him or her an unlisted telephone number;

(d) installing security devices in the witness's home such as security doors, CCTV, alarms, fencing etc.;

(e) concealing identity of the witness by referring to him/her with the changed name or alphabet;

(f) assigning emergency contact persons for the witness;

(g) providing close protection and regular patrolling around the witness's house;

(h) arranging for a temporary change of residence of the witness to a relative's house or a nearby town;

(i) escorting the witness to and from the court and providing him/her a Government vehicle or a State funded conveyance for the date of hearing;

(j) holding of in-camera trials;

(k) allowing a support person to be present with the witness during recording of statement and deposition;

(l) using specially designed vulnerable witness court rooms which have special arrangements like live video links, one way mirrors and screens apart from separate passages for witnesses and accused, with option to modify the image of face of the witness and to modify the audio feed of the witness's voice, so that he/she is not identifiable;

(m) ensuring expeditious recording of deposition during trial on a day to day without adjournments basis;

(n) awarding time to time periodical financial aids/grants to the witness from Witness Protection Fund for the purpose of re-location, sustenance or starting a new vocation/profession, as may be considered necessary;

(o) providing any other form of protection measures, as deemed necessary, after considering the specific requests of the witness.

11. (1) It shall be the duty of the Director, Witness Protection Cell to monitor the implementation of the Witness Protection Order passed by the Competent Authority and conduct a monthly review thereof and file a monthly follow-up Report before the Competent Authority, in such form and manner as may be prescribed.

Monitoring and review of Witness Protection Orders.

(2) It shall be the duty of the Competent Authority to:—

(a) review the Witness Protection Orders passed by it on a quarterly basis based on the monthly follow-up report submitted by the Witness Protection Cell; and

(b) periodically assess the necessity of continuing the Witness Protection Order or enhancing or reducing the protection measures on the basis of a monthly or fresh Threat Analysis Report, as the case may be, submitted by the ACP/DSP in charge of the concerned police sub-division:

Provided that the Competent Authority may call for the Threat Analysis Report at any time upon receipt of any information regarding threat perception to witnesses from any interested person having *locus standi* in the matter.

Witness protection guidelines.

12. The appropriate Government may issue guidelines or directions to be followed by the officers entrusted with the responsibility of ensuring proper implementation of witness protection measures after issuance of Witness Protection Order by the Competent Authority, in such manner as may be prescribed.

Protection of identity.

13. (1) An application for seeking protection of the identity of the witness may be filed, during the course of investigation or trial of any offence, before the Competent Authority through its Member Secretary, in such form and manner as may be prescribed.

(2) Upon receipt of the application, the Member Secretary shall call for the Threat Analysis Report, as mentioned in section 9 and the Competent Authority shall examine the witness or his family members or any other person, as it deems fit, to ascertain whether there is any necessity to pass an identity protection order.

(3) During the course of hearing on the application, the identity of the witness shall not be revealed to any other person and the media, which is likely to lead to witness identification.

(4) The Competent Authority, shall based on the material available on record, dispose of the application and/or pass an appropriate order for protection of the identity of the witness.

(5) Once an order for protection of the identity of witness is passed by the Competent Authority, it shall be the responsibility of the Witness Protection Cell to ensure that the identity of such witness or his or her family members including name or parentage or occupation or address or digital footprints are not revealed and are fully protected.

(6) The Witness Protection Cell shall monitor and ensure that all appropriate steps are taken for giving effect to the orders of Competent Authority passed under this section.

(7) As long as the identity of any witness is protected under an order of the Competent Authority, the Witness Protection Cell shall provide details of persons who can be contacted by the witness in case of emergency.

Change of identity.

14. (1) In appropriate cases, where there is a request from the witness for change of identity, in the prescribed format and based on the Threat Analysis Report, a decision shall be taken for conferring a new identity to the witness by the Competent Authority.

(2) Conferring new identities includes assigning new name, profession, parentage and providing supporting documents acceptable by the Government Agencies:

Provided that the new identities should not deprive the witness from existing educational or professional or property rights.

(3) The Competent Authority may require the applicant to provide any additional information concerning the application that is necessary for its proper consideration.

(4) The Competent Authority may grant permission to acquire and use an assumed identity only if it is satisfied that the assumed identity is needed to protect the safety or welfare of the person in respect of whom the application is made.

(5) The Competent Authority shall conduct a thorough assessment to determine the need for a change of identity, taking into account factors such as the nature of the threat, the credibility of the threat and the potential risks to the witness's safety.

(6) Where the Competent Authority passes an order allowing a change of identity, the Witness Protection Cell shall initiate the necessary procedures, which may include providing the witness with a new name, identity documents and supporting documentation to establish their new identity.

(7) The change of identity shall be legally recognized and respected by all relevant government agencies, institutions and entities and the new identity of the witness shall be treated as valid and shall not be subject to discrimination or prejudice.

(8) A person granted an identity change shall not intentionally, knowingly, or recklessly acquire evidence of, or use, an assumed identity covered, in any way not in accordance with the provisions of this Act, failing which the Competent Authority shall:—

(a) vary or cancel its orders relating to identity change at any time; and

(b) cancel an order relating to identity change if satisfied that the use of the assumed identity is no longer necessary:

Provided that the Competent Authority shall give written notice of the variation or cancellation of orders relating to identity change to the person and the authorised person's supervisor.

15. (1) In appropriate cases, where there is a request from the witness for relocation in the prescribed format and based on the Threat Analysis Report, a decision shall be taken for relocation of the witness by the Competent Authority.

Relocation of witness.

(2) The Competent Authority may pass an order for witness relocation to a safer place within the State or the Union Territory, as the case may be, or territory of the Indian Union keeping in view the safety, welfare and wellbeing of the witness:

Provided that the expenses for such relocation shall be borne from the Witness Protection Fund.

(3) The Witness Protection Cell shall be responsible for giving effect to the orders passed by the Competent Authority under this section or generally otherwise.

16. (1) In cases where the witness entitled to a witness protection order is in police or judicial detention, the Competent Authority may pass necessary orders for ensuring appropriate protection measures for the safety of such witnesses.

Protection for witness in police or judicial detention.

(2) The officer in-charge of the police station or the jail, as the case may be, shall be responsible for giving effect to the protection orders made by the Competent Authority.

17. (1) A Witness Protection Order may provide for a witness to give evidence by means of a live link.

Evidence by Live Link.

(2) The concerned court, upon a request made by the Witness Protection Cell or the protected witness, may authorize the presentation of evidence through a live link.

(3) When, in respect of a threatened witness, an order for identity protection has been passed under section 13, his statement in the Court during trial shall be recorded *via* live link, as per the prescribed procedure and in such a manner that the accused and his pleader shall not be able to see the face or body of the witness:

Provided that the accused and his pleader shall, subject to the provisions of sub-section (3), be entitled to hear the voice of the witness during the recording of the statement.

(4) The Competent Authority, on its own or on an application made by the Witness Protection Cell or the threatened witness, if it is so satisfied, direct that while recording the statement referred to in sub-section (3), the voice of the witness shall be distorted and in that event, the accused or his pleader shall be entitled to hear the distorted voice:

Provided that the undistorted voice recording shall be preserved in a sealed cover and the Court trying the offence shall have the exclusive right of access to the undistorted voice.

(5) The Witness Protection Cell shall be responsible for making necessary technical arrangements for the live link presentation of evidence which includes ensuring the availability of appropriate equipment, secure communication channels and necessary support personnel to facilitate the smooth conduct of remote testimony.

(6) Witnesses testifying through a live link shall be sworn in and subject to the same rules and procedures as witnesses present in the courtroom:

Provided that the court shall ensure that the witness's testimony is conducted in a fair and impartial manner, with the ability for all parties to cross-examine the witness effectively.

(7) The Competent Authority shall take necessary measures to safeguard the integrity of the live link testimony which shall include verifying the witness's identity, ensuring the privacy and confidentiality of the proceedings and taking appropriate steps to prevent tampering or unauthorized access to the live link connection.

(8) Live link testimony shall be admissible as evidence in the same manner as testimony given in person in the courtroom:

Provided that the Competent Authority shall consider the credibility and reliability of the testimony based on the circumstances of the case and the witness's demeanor, irrespective of the mode of testimony.

(9) The court or the Competent Authority shall have the discretion to allow or disallow the presentation of evidence through a live link based on the interests of justice, the needs of the case and the protection of the witness and may modify or terminate the live link arrangement if it is deemed necessary for the proper administration of justice.

(10) The High Court of each State or Union Territory may issue rules or guidelines regarding the presentation of evidence through live link technology, outlining the procedures, standards and requirements for its use:

Provided that these rules and guidelines shall be consistent with the provisions of the Indian Evidence Act, 1872.

1 of 1872.

Withdrawal of witness protection order.

18. The witness protection order may be withdrawn by the Competent Authority, in such manner as may be prescribed, in the following circumstances,—

(a) where the witness protection order is not extended beyond its original duration by the Competent Authority;

(b) where upon review thereof, the threat perception is reported as reduced to the Competent Authority's satisfaction;

(c) on the witness's personal request for its withdrawal and its endorsement by the officer conducting the investigation:

Provided that where the protection order relates to the change of identity of the witness, the witness's original identity may be restored for their benefit on the cessation of the said order.

Termination of witness protection order.

19. (1) The Competent Authority may forthwith terminate the witness protection order where it is proved to its satisfaction that the witness sought protection under the Act by furnishing false information or by misrepresentation:

Provided that prior to termination of the protection order, the Competent Authority shall provide the witness with a written show cause notice of the proposed termination and an opportunity to be heard after receipt of the reply.

(2) In case it is found that the witness had submitted a false application,—

(a) the Competent Authority shall initiate proceedings for recovery of the expenditure incurred from the Witness Protection Fund; and

(b) the said delinquent witness shall be liable to be punished with imprisonment for a term which may extend up to three months and also fine which may extend up to one lakh rupees.

Confidentiality and preservation of records.

20. (1) All stakeholders including the police, the Prosecution, staff of the court, concerned lawyers from both sides shall maintain full confidentiality and shall ensure that under no circumstance, any record, document or information in relation to the proceedings under this Act is shared with any person in any manner except with the Trial Court or the Appellate Court, upon issuance of a written order:

Provided that if such wrongful disclosure leads to the witness or his family members being physically harmed or in danger then the person found guilty of the disclosure shall be punished in the same manner as the person committing the crime against the witness under the relevant law under which the offender would be tried.

(2) The digital records pertaining to the case shall be encrypted with the encryption details available only with Home Department/Ministry of the appropriate Government.

(3) All the records pertaining to the proceedings under this Act shall be preserved till such time the related trial or appeal thereof is pending before a court of law:

Provided that after one year of disposal of the last court proceedings, the hard copy of the records may be weeded out by the Competent Authority after preserving the scanned soft copies of the same in an encrypted form.

21. (1) Any person who discloses any confidential information relating to the identity, whereabouts or any other personal information of a witness who is being protected under the provisions of this Act, to any third party, in contravention of the provisions of this Act without authorization of the Competent Authority shall be guilty of an offence under the Act. Offences and penalty.

(2) Any person guilty of an offence under sub-section (1), shall be punished with imprisonment for a term which may extend upto three years and also a fine of one lakh rupees.

22. Any person aggrieved by an order passed by the Competent Authority under this Act, may prefer an appeal against such order to the High Court having jurisdiction in the matter, within thirty days from the date of such order, in such manner as may be prescribed. Appeal.

23. Without prejudice to the foregoing provisions of this Act, the Competent Authority, shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy, as the appropriate Government, may give in writing to it from time to time. Power of appropriate Government to issue direction.

24. The Central Government may, give such directions as it may consider necessary to the State Governments for the effective implementation of the provisions of this Act and frame model rules in respect of all or any of the matters with respect to which the appropriate Government may make rules under this section and where any such model rules have been framed in respect of any such matter, they shall apply to the State or Union Territory until the rules in respect of that matter are made by the appropriate Government. Power of Central Government to give directions and frame model rules.

25. No suit, prosecution or other legal proceedings shall lie against the appropriate Government, Competent Authority or any officer, employees, agency or person acting under the direction either of the appropriate Government or the Competent Authority for anything which is in good faith done or intended to be done in under this Act. Protection of action taken in good faith.

26. (1) The appropriate Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act. Power to make rules.

(2) Every rule and every regulation made by the Central Government 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.

(3) Every rule and every regulation made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature

where it consists of two Houses, or where such Legislature consists of one House, before that House.

Act not in
derogation of
any other law.

27. 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.

Power to
remove
difficulties.

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

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

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of the Parliament or each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House, as the case may be.

STATEMENT OF OBJECTS AND REASONS

Need for witness protection in India stems from the critical role played by witnesses in the criminal justice system. Witnesses can provide vital information and evidence that can lead to successful prosecution of the offenders while paving the way for deliverance of justice. However, witnesses are often threatened, intimidated or subjected to violence, endangering their lives. Lack of fool proof protection in the prevailing system discourages common people to come forward as witness, thus compromising the credibility of the justice system and undermining the right to fair trial.

The Hon'ble Supreme Court of India has emphasized time and again for a robust witness protection framework in India. Numerous studies conducted abroad have shown a direct link between improved criminal conviction rate and a strong witness protection system. Thus, there is an urgent need to establish a comprehensive witness protection program that can safeguard and instil confidence amongst the witnesses to encourage their active participation in criminal proceedings.

The Witness Protection Bill, 2023 aims to create a strong framework for witness protection while addressing the challenges faced by witnesses to boost truth-telling and strengthening the criminal justice system.

The proposed Bill seeks to ensure the protection of witnesses by —

- i. providing effective protection measures wherein witnesses can freely and fearlessly testify without undue influence or fear of reprisals by establishing a comprehensive legal framework for witness protection encompassing procedures for witness assessment, the application process, provision of protection measures, monitoring and support services etc.;
- ii. creating mechanisms for accountability and oversight in the implementation of witness protection measures by establishing a Witness Protection Authority and Witness Protection Cells responsible for inter alia assessing witness eligibility, granting protection and monitoring the effectiveness of protection measures;
- iii. setting up a Witness Protection Fund to provide financial assistance to witnesses under the program;
- iv. imposing stringent penalties on persons who disclose the identity of a witness.

The Bill seeks to achieve the above objectives.

S. NIRANJAN REDDY.

FINANCIAL MEMORANDUM

Clause 3 of the Bill states that the appropriate Government shall constitute a body to be known as the Witness Protection Authority or Competent Authority in every district there under, to implementing the provisions of this Act.

Clause 5 provides that the appropriate Government shall constitute a Witness Protection Cell comprising of such number of officers and staff as may be prescribed.

Clause 6 provides that the appropriate Government shall establish a Witness Protection Fund from which the expenses incurred for the implementation of the witness protection order passed by the Competent Authority and other expenditures related to implementation of the provisions of the Act, shall be met.

Clause 10 pertains to the types of witness protection measures to be provided to witnesses under protection, which shall include making arrangement with the telephone company to change the witness's telephone number or assign him or her an unlisted telephone number; installing installation of security devices in the witness's home such as security doors, CCTV, alarms, fencing etc.

Clause 15 provides for relocation of witnesses, in appropriate cases.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is, however, not possible at this stage to estimate the actual expenditure likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 25 of the Bill empowers the appropriate Government to make rules and/or regulations for carrying out the purposes of the Bill. Clause 28 of the Bill empowers that the appropriate Government may by an order make provisions for removing any difficulty that may arise in implementing any provisions of the Act. As the rules and/or regulations will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. LXIV OF 2023

A Bill to provide state-sponsored maternity benefits to women working in the unorganised sector by establishing a National Maternity Benefit Welfare Board, Maternity Benefit Fund etc., and for matters connected therewith and incidental thereto.

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

Short title, and commencement.

1. (1) This Act may be called the Maternity Benefit for Women in the Unorganised Sector Act, 2023.

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

Definitions.

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

(a) “appropriate Government” means the Government governing the territory in which the woman undergoes her delivery, miscarriage or medical termination of pregnancy which shall be in the case of a State, the Government of that State; in the case of a Union Territory, the Union Territory Administration and in all other cases, the Central Government;

(b) “Board” means the National Maternity Benefit Welfare Board established under section 10 of the Act;

(c) “child” includes a still-born child;

(d) “delivery” means the birth of a child;

(e) “employer” means a person or an association of persons, who has engaged or employed a woman to work at a workplace either directly or otherwise for remuneration;

(f) “Fund” means the Maternity Benefit Fund established under section 12 of the Act;

(g) “maternity benefit” means the payment referred to in section 4 of the Act;

34 of 1971.

(h) “medical termination of pregnancy” means the termination of pregnancy permissible under the provisions of Medical Termination of Pregnancy Act, 1971;

45 of 1860.

(i) “miscarriage” means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code;

(j) “prescribed” means prescribed by rules made under this Act;

29 of 2019.

(k) “unorganised sector” shall have the same meaning as assigned to it in the Code on Wages, 2019.

(l) “wages” means all remuneration paid or payable in cash to a woman working at a workplace, in respect of her employment or engagement or of work done in such employment or engagement and includes:

(i) such cash allowances (including dearness allowance and house rent allowance) as a woman is for the time being entitled to;

(ii) incentive bonus; and

(iii) the money value of the concessional supply of food grains and other articles,

but does not include:

(i) any bonus other than incentive bonus;

(ii) over-time earnings and any deduction or payment made on account of fines; and

(iii) any gratuity payable on the termination of service;

29 of 2019.

(m) “woman” means a woman self-employed or employed, whether directly or through any agency and entitled for wages at any workplace in the unorganised sector including a worker in the organised sector who is not covered by any of the Acts mentioned in Schedule II to Code on Wages, 2019;

(n) “work” means any physical or other labour performed by a woman contributing to the economy at any given point of time, including but not limited to subsidiary status activity, seasonal economic activity, engagement in informal establishments, and self-employed roles such as tailoring, processing agricultural produce, livestock care, and domestic labour; and

(o) “workplace” means any place where women engage in work at any given point of time.

3. (1) No woman shall be knowingly engaged at any workplace during the six weeks immediately following the day of her delivery, miscarriage, or medical termination of pregnancy.

(2) No woman, already employed or engaged at any work place, shall work during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.

Prohibition of employment or engagement of women at any workplace during certain periods of maternity.

(3) No pregnant woman shall, on a request being made by her in this behalf, be required to do during the period specified in sub-section (4), any work which is of an arduous nature or which involves long hours of standing, or which in any way is likely to interfere with her pregnancy or in the normal development of the foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.

(4) The period referred to in sub-section (3) shall be:

(a) the period of one month immediately preceding the period of six weeks, before the date of her expected delivery;

(b) any period during the period of six weeks for which the pregnant woman does not avail leave of absence.

Explanation.—For the purposes of this section, the expression “any work of arduous nature” shall mean any work which involves or requires strenuous physical or mental effort or is difficult and tiring in nature.

Right to payment of maternity benefit.

4. (1) Every woman working at a workplace, and registered under this Act as per the provisions of section 9, shall be entitled to the payment of maternity benefit from the appropriate Government, at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day:

Explanation.—For the purpose of this sub-section, the “average daily wage” means the average of the woman’s wages payable to her for the days on which she has worked during the period of two calendar months immediately preceding the date from which she absents herself on account of maternity, the minimum rate of wage fixed or revised under the Code on Wages, 2019, whichever is the highest.

29 of 2019.

(2) No woman shall be entitled to maternity benefit unless she has worked at a workplace for a period of not less than thirty days in the twelve months immediately preceding the date of her expected delivery:

Explanation.—For the purpose of this sub-section, the days on which a woman has actually worked at a workplace, the days for which she has been laid off or was absent from duty during holidays declared under any law for the time being in force to be holidays with wages, during the period of twelve months immediately preceding the date of her expected delivery, shall be taken into account.

Notice of claim for maternity benefit and payment thereof.

5. (1) Any woman working at a workplace and entitled to maternity benefit under section 4 of the Act, may give notice, in writing at any hospital, wholly or partially managed by the appropriate Government, or Anganwadi Centre stating that her maternity benefit and any other amount to which she may be entitled under this Act may be paid to her or to such person as she may nominate in the notice and that she will not work at any workplace during the period for which she receives maternity benefit.

(2) In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than eight weeks from the date of her expected delivery.

(3) Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after her delivery.

(4) On receipt of the notice, the appropriate Government, through a nodal agency, as may be established by the appropriate Government in such manner as may be prescribed, shall disburse the amount of maternity benefit within seventy-two hours of production of the said notice:

Provided that a woman who has given the notice has also produced her Maternity Benefit Card, as provided under sub-section (2) of section 9, to avail the requisite payment.

- 6.** If a woman entitled to maternity benefit under section 4, dies before receiving such maternity benefit, the appropriate Government shall pay such benefit to the person nominated by the woman in the notice given under sub-section (1) of section 5 and in case there is no such nominee, to the caregiver of the child born to such woman. Payment of maternity benefit in case of death of a woman.
- 7.** Every woman shall have the right to avail common crèche facility run by the appropriate Government, and municipality in the vicinity of their workplace. Crèche facility.
- 8.** When a woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for her employer to discharge or dismiss her during or thereafter on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service. Dismissal for absence during pregnancy.
- 9.** (1) Every woman shall be required to be registered for the purpose of availing benefits under the Act. Registration for availing maternity benefit.
- (2) A woman shall make an application for registration along with an identity proof in such form and manner, as may be prescribed by the Central Government, and such worker shall be provided with a unique Maternity Benefit Card, which may be produced at any nodal agency in the country, as defined under sub-section (4) of section 5:
- Provided that the system of electronic registration maintained by the appropriate Government shall also provide for self-registration by any such worker in such manner as may be prescribed by the Central Government.
- (3) A registered woman shall be eligible to avail the benefits under the Act.
- 10.** (1) The Central Government shall, by notification in the Official Gazette, establish a National Maternity Benefit Welfare Board, for the purposes of carrying out the welfare measures under the Act. National Maternity Benefit Welfare Board.
- (2) The National Maternity Benefit Welfare Board shall be the nodal authority,—
- (a) to collect and to expend the proceeds of contribution collected under Maternity Benefit Fund, as provided under section 12 of the Act;
- (b) to take any relevant measures for effective implementation of the Act; and
- (c) responsible for any other duty as may be assigned to it by the Central Government, from time to time.
- (3) The Board shall be comprised of a Chairperson and such number of members, as may be prescribed.
- (4) The qualifications and experience, term of office, salaries, remuneration and other allowances payable to, and other terms and conditions of service of the Chairperson and members of the Board, shall be such as may be prescribed.
- (5) The Board shall have its head office in New Delhi with offices in the capital city of each State and Union Territory, as may be prescribed.
- (6) The Board may appoint such other officers and employees, as it considers necessary, for the efficient discharge of its functions under this Act.
- (7) The qualifications and experience, terms and conditions of service including salary and allowances of the officers and employees of the Board shall be such as may be prescribed.
- 11.** (1) The appropriate Government shall set up a toll-free call centre or helpline or such facilitation centres as may be considered necessary, from time to time, to perform any or more of the following functions, namely:— Helpline, facilitation centre, etc., and awareness measures.
- (a) to disseminate information on the available maternity benefits under the Act, and other available social security schemes for women;

(b) to facilitate filing, processing and forwarding of application forms for registration of women;

(c) to assist beneficiaries under the Act in the registration process;

(d) to facilitate enrolment of the registered beneficiaries;

(e) to assist beneficiaries in submission of notice of claim for maternity benefit and obtaining the requisite amount.

(2) The appropriate Government shall promote awareness of the benefits available under the Act by conducting education and information campaigns to raise awareness of maternity benefits amongst the targeted beneficiaries.

(3) The appropriate Government shall publish information in public domain, annually, regarding:

(a) the number of beneficiaries under the Act;

(b) the number of registered women under the Act;

(c) the data on the condition of physical infrastructure of the appropriate Government for supporting the beneficiaries;

(d) the total amounts disbursed by the appropriate Government under the Act; and

(e) the total number of complaints instituted, pending, resolved, and withdrawn before courts, under the Act.

Maternity
Benefit Fund.

12. (1) The Central Government shall, by notification in the Official Gazette, establish a Fund to be called the Maternity Benefit Fund, for the purposes of implementing the provisions of this Act.

(2) The Central Government, shall from time to time, after due appropriation made by Parliament by law in this behalf, contribute such sums of money and/or funds, as may be necessary, to the Fund for carrying out the purposes of this Act.

(3) The Fund shall be under the control of the Central Government and there shall be credited thereto such contributions in the form of 1 per cent. of the average net profits from companies incorporated under the Companies Act, 2013, which engage in the provision of healthcare and pharmaceutical goods and services, and fulfill any of the following conditions in the preceding financial year:

(a) has a net worth of more than Rupees 500 crores;

(b) turnover of more than Rupees 1000 crores;

(c) net profit of more than Rupees 5 crores.

Act not
inderogation
of any other
law.

13. 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.

Protection of
action taken in
good faith.

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

Power to make
rules.

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

(2) Every rule and every regulation made by the Central Government 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.

(3) Every rule and every regulation made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

STATEMENT OF OBJECTS AND REASONS

In India, maternity provisions encompass the rights of biological, commissioning, and surrogate mothers and are protected by labour laws and associated programs. The Constitution of India acknowledges maternity entitlements as part of its Directive Principles of State Policy, with a commitment to ensure maternity relief. The Maternity Benefit Act, 1961 (amended in 2017) provides various benefits, such as 26 weeks of paid leave for childbirth, crèches at workplaces, nursing breaks, paid leave for abortion/miscarriage, and paid leave for commissioning mothers and women adopting a child under three months. The law also prohibits termination of employment due to pregnancy.

However, the 2017 amendment mainly benefits women in formal employment and overlooks those in the informal sector. Eligibility criteria, such as working for a specific employer for a certain duration, exclude many women, even with formal employment, due to precarious work arrangements. The requirement has been reduced to 80 days in the 2020 Social Security Code, but it still doesn't fully address the challenges faced by women workers employed in various sectors. Unfortunately, there is no available data on how many women utilize the provisions of the amended Maternity Benefit Act of 2017, and there is a lack of information about the functioning of worksite crèches provided under this Act. A 2019 study on IT/ITES companies revealed that many employers were unaware of the 2017 amendment, and a significant number lacked worksite crèche facilities despite having more than 50 employees.

Various other labour legislations in India are linked to maternity benefits. However, it excludes many women, especially those in the informal sector, due to strict eligibility criteria. Sectoral labor laws like the Factories Act, 1948 and the Plantation Labour Act, 1951 are related to maternity benefits. Some other labor laws, such as the Beedi and Cigar Workers (Conditions of Employment) Act, 1966, and the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, offer consolidated maternity benefits, but the amounts vary across States. Implementation of these benefits is hindered by poor awareness, improper worker registration, and lack of government monitoring.

The Unorganised Sector Workers Social Security Act, 2008 provides limited maternity benefits, primarily through the *Janani Suraksha Yojana* (JSY) scheme, which focuses on incentivizing institutional deliveries and does not offer wage compensation. While the JSY reaches many women, it has limitations and doesn't align with the goals of a comprehensive maternity benefit scheme. The National Food Security Act, 2013, mandates cash provisions for pregnant women, but the *Pradhan Mantri Matru Vandana Yojana* (PMMVY), the scheme under this Act, has restrictions and offers a lower amount than specified. The newly passed Social Security Code, 2020, replaces the Maternity Benefit Act, 1961, and other labour laws. While it offers progressive provisions for women in the formal sector, it doesn't adequately address the needs of women in the informal sector, leaving it up to the Central and State Governments to notify and implement schemes with no clear commitments for these women. NFHS 5 data reveals a correlation between women's education and declining fertility rates. Women with no schooling have more children on an average than those with 12 or more years of schooling. Economic betterment is associated with lower fertility rates. However, government schemes for maternal welfare in the unorganised sector, relying on meager cash transfers conditional on institutional deliveries for the first child only, seem incongruent with the higher fertility rates among unorganised sector women, as indicated by public data. This discrepancy raises questions about the effectiveness of current maternal welfare initiatives. Complex paperwork, limited eligibility criteria, and a focus on women in established workplaces further restrict the scheme's reach. This approach contradicts WHO guidelines for a six-month period of exclusive breastfeeding, leading to difficult choices for women in the unorganised sector, and contributing to high infant mortality rates during the first birth.

In India, there is a pressing need to address the issue of maternity provisions for women in the informal workforce. While states like Telangana brilliantly set an example by

providing maternity benefits of Rupees 30,000 for registered women workers, wives of registered male workers, and two daughters of the registered worker up to two deliveries, a lack of centralized legislation has put the onus on uneven schemes disbursed by different States. Over 90 per cent. of women workers in the country are excluded from accessing wage-linked maternity benefits despite national and international commitments. To tackle this problem, the bill takes into account several key considerations:

1. **Recognizing Unpaid Work: Women's work**, particularly in household activities like tailoring, fuel collection, agricultural processing, and care work, often goes unrecognized and unpaid. Maternity provisions should be universally defined to include all women, acknowledging their productive but unpaid contributions. The Bill defines work and workplace to encompass any physical work that a woman does which contributes to the economy.

2. **Inclusion of Informal Workers:** Many women in the labour force work in informal jobs with low pay, irregular employment, and play multiple roles. Improved registration and social security coverage are needed to include these women in maternity provisions.

3. **Redefining the Employer: Employee Relationship:** The traditional employer-employee relationship doesn't adequately apply to the informal workforce. The State should take primary responsibility for ensuring maternity provisions for all women and develop mechanisms for collecting employer contributions. A centralized maternity and childcare welfare fund has been suggested for this purpose.

4. **Uniform Wage-Linked Provisions:** A consistent principle of providing wage-linked maternity provisions for at least six months should be applied to all women. In the formal sector, this means six months of paid leave, while in the informal sector, it should be linked to minimum wages for six months.

5. **Registration:** The provision of social security benefits relies on workers being officially enrolled in the program. It is crucial to assign local authorities, including labour boards, health departments, *Anganwadi* centers, district officers, and ASHA workers, with the responsibility of raising awareness, actively identifying eligible women, and assisting them in the registration process as mandated by the law. The Bill advocates for a unique Maternity Benefit Card upon registration, which is valid across States to address the issue of exclusionary measures that arise from migration.

6. **Decentralized Distribution:** The maternity benefit amount needs to be substantial and regularly reviewed, moving away from tokenistic approaches. Integration with other laws, such as the National Food Security Act 2013, should be considered, and a unified system for distributing maternity benefits from various sources must be established. Decentralizing the distribution system is crucial to ensure that benefits effectively reach women at the grassroots level.

Mary Wollstonecraft, an 18th-century feminist, presents two paths for women's citizenship: one emphasizing equality in the workforce, overlooking inherent differences, and the other recognizing the value of unpaid domestic work. Despite policy advancements, women are often relegated to the private sphere, perpetuating their status as the "second sex." Contemporary feminist perspectives highlight marginalized women rejecting the stigma around their work and asserting empowerment by preserving their valued skills. However, conditional cash transfer schemes may push women back to the private sphere during pregnancy or compel them to merge private and public labor. The Bill advocates for celebrating pregnancy for women of all backgrounds and occupations, emphasizing the need to recognize women's dual roles as both careerists and mothers and their diverse contributions to the economy.

The Bill seeks to achieve the above-said objectives.

K.R. SURESHREDDY

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the payment of maternity benefits to the registered beneficiaries. Clause 6 provides for payment of maternity benefit in case of death of a woman before receipt of maternity benefit. Clause 10 provides for establishment of the National Maternity Benefit Welfare Board and appointment of a Chairperson and Members therein along with other officers and employees as may be required. Clause 12 provides for the establishment of the Maternity Benefit Fund. 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 actual expenditure likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 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.

BILL NO. LXVIII OF 2023

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

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

1. (1) This Act may be called the Prevention of Cruelty to Animals (Amendment) Act, 2023. 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.

59 of 1960.

2. In section 20 of the Prevention of Cruelty to Animals Act, 1960, in clause (b), for the words "with fine which may extend to two hundred rupees," the words "with imprisonment for a term which may extend to 6 months and with fine which may extend to one lakh rupees," shall be substituted. Amendment of Section 20.

STATEMENT OF OBJECTS AND REASONS

The crime of practising cruelty towards animals is an offence, which is directed towards harming or taking away the lives of innocent creatures with whom we share our world. Cruelty towards animals is, in most cases, an action resulting from a gross perversion of the mind of the person committing the offence and is an act that is violent as well as sadistic in nature. Animals around us need our protection as they are beings unable to communicate or express their pain. While human beings have the intellectual and logical facilities to seek justice against torture, the same is not available to animals, who are helpless and dependent on whoever has their custody. We are a country with a rich cultural history of compassion towards animal life and even our ancient texts provide for a special place for animals in our society. Notable texts like the Jataka Tales have even used animals as a medium for instilling righteous and moral values in children. We have always recognized that animals are sentient beings, who exhibit qualities often attributed to humans such as love, grief, pain, attachment, emotional intelligence and loyalty. When laws of our country provide for exemplary punishment against torture of human beings, it is also essential that cruelty towards animal life be punished in a manner that not only penalizes the offender proportionate to their crimes but also acts as a deterrent for any potential offenders. Currently, the extant law, i.e., the Prevention of Cruelty to Animals Act, 1960, only provides for a penalty of two hundred rupees if found guilty of the crime of inflicting torture and cruelty towards animals. While that sum might have been an exemplary penal amount in 1960, the evolution of our society as well as present circumstances demonstrates that a harsher penalty is warranted. Individuals guilty of inflicting cruelty and torture on animals should not be allowed to do so and escape by paying a meagre penalty of just two hundred rupees. Cruelty towards animals can happen across a spectrum of severity and our judiciary should have the provision of imposing the penalty of imprisonment as well as enhanced exemplary fine in cases of wanton and sadistic infliction of cruelty on and torture of animals.

The objective of the proposed Bill emanates from our responsibility as a civilized society towards protecting animals and punishing wanton torture and cruelty inflicted on them by individuals of a sadistic bent. Such cruelty when demonstrated in front of children also influences the way they look at animals and can influence their minds with the horrible notion that torturing animals is acceptable and that it can even be an activity for fun and entertainment. Imposing harsher penalties for cruelty towards animals will not only ensure adequate punishment for such crimes but will also positively influence our society into understanding that animals are emotional sentient beings, whose innocent lives deserve to be respected and protected from torture and cruelty.

Hence, this Bill.

SAKET GOKHALE.

BILL NO. LXII OF 2023

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

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

1. (1) This Act may be called the Information Technology (Amendment) Act, 2023.

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. (1) In section 2 of the Information Technology Act, 2000 (hereinafter referred to as the principal Act),

Amendment of section 2

(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;

(*td*) "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.".

Insertion of
new section
66G.

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

Punishment
for
threatening a
woman to
express her
opinion etc.

"**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:—

(*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 new section shall be inserted, namely:—

Insertion of new section 67BA.

"**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.

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

(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."

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 leads to 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.

BILL NO. LXVI OF 2023

A Bill to provide for regulation of appointments of retired officers in various government, Constitutional, Statutory bodies etc. by adhering to the mandatory cooling off period post-retirement and for the establishment of a Regulatory Authority and Review and Exemption Committee for granting exemptions in certain cases and for matters connected therewith and incidental thereto.

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

1. (1) This Act may be called the Public Service Integrity Act, 2023.

Short title and commencement.

(2) It shall come into force at once.

2. In this Bill, unless the context otherwise requires:

Definitions.

(a) "Appointing Office" means an office under the Government of India or Constitutional body or Statutory body including all bodies, authorities, institutes,

organizations, regulators of the Government of India or its instrumentalities or such offices instituted by the Constitution of India, where the Scheduled Office Holder is seeking appointment post his retirement from the Scheduled Office;

(b) "appointment" refers to any paid engagement, employment, or work, whether permanently or part-time, including consultancy and does not include pro bono services;

(c) "Authority" means the Regulatory Authority established under section 6 of this Act;

(d) "Committee" means the Review and Exemption Committee established under section 10 of the Act;

(e) "cooling-off period" means the period during which a Scheduled Office Holder is subject to the restrictions in seeking post-retirement appointment imposed by this Act;

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

(g) "Scheduled Office" mean such bodies or offices established by Government of India or the Constitution of India and Commissions or other Statutory bodies as mentioned in the Second Schedule to this Act, where a Scheduled Office Holder was engaged, employed, appointed, contracted etc., in the discharge of their duties prior to their retirement; and

(h) "Scheduled Office Holder" refers to the position or designation of a person, who is seeking appointment post his retirement from the Scheduled Office, as listed in the First Schedule to this Act.

Application of Act to Scheduled Office Holders.

3. (1) The provisions of this Act shall apply to every Scheduled Office Holder.

(2) The Scheduled Office Holder shall be restricted from seeking or accepting any appointment, after retirement, from an Appointing Office, either before or during the mandatory cooling-off period.

Explanation—For the purposes of this Act, the "cooling-off" period shall be three years from the date of retirement of the Scheduled Office Holder.

Duty of Appointing Office.

4. (1) It shall be the duty of the Appointing Office to exercise due diligence for ensuring that the mandatory cooling-off period has elapsed before offering or appointing a Scheduled Office Holder post-retirement from such office.

(2) The due diligence shall be made in writing and shall include a No-Objection Certificate, in such manner and form as may be prescribed, obtained from or issued by the Scheduled Office affirming the elapse of the mandatory cooling-off period, as specified in sub-section (2) of section 3.

Duty of Scheduled Office.

5. It shall be the duty of each Scheduled Office to maintain a register of Scheduled Office Holders, serving the mandatory cooling off period and upon the elapsing of such period, to mandatorily issue a No-objection Certificate, electronically and through a physical letter to the concerned Scheduled Office Holder, in such manner as may be prescribed.

Regulatory Authority.

6. (1) With effect from the appointed day, the Central Government shall, by notification in the Official Gazette, establish a body to be known as the Regulatory Authority, for implementing the provisions of this Act.

(2) The Regulatory Authority shall be comprised of a Chairperson and such number of members, as may be prescribed.

(3) The qualifications and experience, term of office, salaries, remuneration and other allowances payable to, and other terms and conditions of service of the Chairperson and members of the Regulatory Authority, shall be such as may be prescribed.

(4) The Authority shall have its head office in New Delhi.

(5) The Authority may appoint such other officers and employees, as it considers necessary, for the efficient discharge of its duties and functions under this Act.

(6) The qualifications and experience, terms and conditions of service including salary and allowances of the officers and employees of the Authority shall be such as may be prescribed.

7. (1) It shall be the duty of the Regulatory Authority to ensure prosecutorial enforcement and oversight of the provisions of the Act.

Duties and functions of the Regulatory Authority.

(2) An application for investigation, by any person(s) seeking redressal under this Act, shall lie with the Authority.

Explanation—For the purposes of this clause, person shall include a juristic person.

(3) Notwithstanding anything contained in sub-section (2), the Authority shall have the power to take suo moto cognizance of any violation of a provision of this Act and investigate thereupon.

(4) The Authority, on receipt of an application, as per sub-section (2) or otherwise, upon *prima facie* determination of violation of any of the provision of this Act, shall institute proceedings against the appointment before the Central Administrative Tribunal of appropriate jurisdiction, and such proceedings shall be subject to the Administrative Tribunal Act, 1985.

13 of 1985.

(5) Any Scheduled Office Holder, or Scheduled Office or Appointing Office, found guilty of violation of the provisions of the Act, shall be liable to penalties, including fines or other appropriate action, as provided under section 8 or as determined by the Central Administrative Tribunal or the appropriate Court of Appeal.

(6) Nothing in this Act shall bar proceedings in any Tribunal and/or Court of competent jurisdiction for violation of any other law arising from the same cause of action.

8. (1) Where a Scheduled Office Holder commits a violation of sub-section (2) of section 3, he or she shall be immediately terminated from the appointment without any associated privileges, perks, pension, benefits, etc., arising from such appointment and shall also be liable to a fine which may extend to ten lakh rupees.

Offences and Punishment.

(2) Where an Appointing Office commits a violation of section 4, it shall be liable to a fine which may extend to ten lakh rupees.

(3) Where a Scheduled Office commits a violation of section 5, it shall be liable to a fine which may extend to fifty thousand rupees.

(4) Notwithstanding anything contained in this section, there shall be no bar to the exercise of contempt jurisdiction of the Tribunal and/or Court in proceedings arising out of violation of the provisions of this Bill.

9. No appeal shall lie to the decision of the Central Administrative Tribunal before any court of any jurisdiction save the exercise of powers of the Supreme Court under article 136 of the Constitution of India.

Appeals from the decision of the Central Administrative Tribunal.

10. (1) Notwithstanding anything contained in section 3, a Scheduled Office Holder of outstanding caliber or merit and whose expertise is deemed crucial for specific Governmental or Constitutional roles, may be exempted from the mandatory cooling-off period specified in section 3, subject to restriction, as specified under sub-section (2).

Exemption.

(2) An exempted Scheduled Office Holder shall be subject to a minimum cooling-off period of one year from the date of his or her retirement.

(3) The determination of eligibility of a Scheduled Office Holder for exemption shall be made by the Review and Exemption Committee, as specified in section 11.

Review and
Exemption
Committee.

11. (1) With effect from the appointed day, the Central Government, shall by notification in the Official Gazette, establish a Review and Exemption Committee, to review and decide on applications for granting exemptions, in a fair and impartial manner, to such Scheduled Office Holders, in whose respect an application has been initiated by the Appointing Office, as per provisions of section 10:

Provided that the Committee shall consider factors such as exceptional skills, expertise, and demonstrated contributions in the respective field(s), suitability to satiate the pressing exigency that requires such exemption, while taking a decision on the applications seeking exemption:

Provided that the Committee shall grant a maximum of five exemptions in a single financial year.

(2) The Committee shall consist of the following—

(a) a Judge of the Supreme Court nominated by a resolution of the Supreme Court Collegium-Chairperson;

(b) Leader of Opposition in the House of the People or where there is no such Leader of Opposition, then, the Leader of the single largest Opposition Party in the House of the People or such other person nominated by him, in such manner as may be prescribed,- Member; and

(c) The Union Minister of Personnel, Public Grievances and Pensions, or such other person nominated by him, in such manner as may be prescribed,- Member.

Application
for
exemption.

12. (1) The application for seeking exemption of the cooling-off period, under section 10 shall be initiated exclusively by the Appointing Office seeking to appoint the Scheduled Officer Holder.

(2) The application shall be submitted in writing, in such form and manner as may be prescribed, bringing out clearly therein the reasons for seeking exemption including lack of suitable alternatives for the appointment, due diligence exercised to find suitable alternatives and the pressing exigency for seeking such exemption.

(3) The Scheduled Officer Holder within the purview of the cooling-off period, as specified in section 3, are precluded from submitting applications directly to the Review and Exemption Committee.

Meetings,
voting process
etc. of the
Review and
Exemption
Committee.

13. (1) The Review and Exemption Committee shall convene as and when required to review applications for exemptions, in such manner and shall observe such rules, as may be prescribed.

(2) Each member of the Committee, including the Chairperson, shall have an equal vote.

(3) All decisions of the Committee shall be determined by a simple majority vote.

Disclosures by
the Review
and
Exemption
Committee.

14. (1) All applications for exemption submitted by the Appointing Office, along with the minutes of meeting(s) of the Review and Exemption Committee and related proceedings, shall be subject to mandatory disclosure in the public domain within one week of the meeting, in such manner as may be prescribed.

(2) The information shall be conspicuously published on the official website of the Ministry of Personnel, Public Grievances and Pensions or any other designated platform, ensuring accessibility to the general public, in such manner as may be prescribed.

(3) The Committee shall advertise, in print and digital versions of leading daily newspapers in all the languages specified in the Eighth Schedule to the Constitution and also in the official Gazette, in such manner as may be prescribed, and specify a period of fifteen days to receive letter(s) of objection(s) to a grant of exemption, from the general public.

(4) Upon conclusion of the proceedings on an application by the Committee, a comprehensive disclosure including the decision of the Committee along with the rationale articulated by the Appointing Office for seeking exemption, comprehensive insights into the Committee's deliberations, discussion and response to objections received from the general public shall also be disclosed in the public domain, in such manner as may be prescribed.

15. (1) No appeal shall lie in any court of any jurisdiction impugning the decision of the Review and Exemption Committee save as provided under sub-section (2).

Appeals on the decision of the Review and Exemption Committee.

(2) A direct appeal shall lie to a bench of the Chief Justice of India and four senior most puisne Judges of the Supreme Court of India:

Provided that such appeal shall be preferred within thirty days from the decision of the Review and Exemption Committee:

Provided further that the appeal shall be exclusively on the grounds of a substantial question of law or, *ultra vires* to the Constitution or, grave and substantial discrepancy in fact, or conflict of interest, or corrupt and/or arbitrary conduct:

Provided further that an appeal shall be maintainable by any person.

Explanation—For the purpose of this section, "person" shall include an interested member of the public including juristic person(s).

16. If upon final determination of the application and/or appeal, exemption as specified in section 9, is granted by the Review and Exemption Committee, the seniority and privileges, the date of appointment of the Scheduled Office Holder shall be deemed to be the original date of application by the Appointing Office.

Restoration of *Status Quo Ante*.

17. (1) Any proceedings by the Regulatory Authority and/or proceedings before the Central Administrative Tribunal or subsequent appeal for violation(s) of the provision(s) of this Act shall not stand vitiated upon expiry of the three year cooling-off period.

Vitiating of proceedings.

(2) Any application for a grant of exemption before the Review and Exemption Committee shall stand vitiated upon application by the Appointing or the concerned Scheduled Office Holder to cancel the proceedings:

Provided that such application for cancellation of proceedings shall not deem to grant restoration of *status quo ante* from the date of such application for determination of seniority and privileges.

(3) Nothing in this section shall act as a bar for the Supreme Court to continue to conduct hearings on any issue arising herein for purposes of settling a substantial question of law or in the interest of justice.

18. Notwithstanding anything contained in this Act, nothing in this Act shall act as a bar against the right of the Scheduled Office Holder to,—

Rights of Scheduled Office Holder after retirement.

(a) contest election to any legislative body within the territory of India; or

(b) become a member of a political party and to engage in activities in pursuit thereof,

after retirement from such office.

Savings.

19. Notwithstanding anything contained in this Act, anything done or any action taken or purported to have done or taken, or any proceedings taken or any direction given or any proceedings taken or any penalty or fine imposed under the Central Civil Services (Conduct) Rules, 1964, the Central Civil Services (Pension) Rules, 1972, and the All India Services (Conduct) Rules, 1968, regarding commercial employment undertaken by a Government servant, within one year of retirement without government sanction, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

Power to
make Rules.

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

(2) Every rule made 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.

THE FIRST SCHEDULE

(See section 3)

List of Scheduled Office Holder(s)

1. Individual whose last appointment as a part of their service tenure has been in the capacity of Chief Election Commissioner.
2. Individual whose last appointment as a part of their service tenure has been in the capacity of Comptroller and Auditor General.
3. Individual whose last appointment as a part of their service tenure has been in the capacity of Chief Information Commissioner.
4. Individual whose last appointment as a part of their service tenure has been in the senior-most position, including but not limited to the Heads, Chairpersons, Directors, or any equivalent capacity signifying the senior-most position, in the hierarchy of Constitutional and Statutory bodies, including financial bodies and Commissions.
5. Three-star-rank and higher officers in the military, whose last appointment as a part of their service tenure, has been in the position of Army Commander and above or an equivalent rank.
6. Chief Justice of India and puisne Judges of the Hon'ble Supreme Court of India.
7. Chief Justice and puisne Judges of the Hon'ble High Court of Judicature of States and Union Territories.
8. Attorney General of India.

THE SECOND SCHEDULE

[See section 5]

Scheduled Office(s)

1. Election Commission of India.
2. Indian Audit and Accounts Service.
3. Central Information Commission.
4. All Organizations, Bodies, Agencies, Authorities, Commissions, Instrumentalities etc., in which Scheduled Office Holder(s) under entry 4 of the First Schedule are appointed, engaged, or employed.
5. Research and Analysis Wing.
6. Intelligence Bureau.
7. Enforcement Directorate.
8. Chief Vigilance Commission.
9. All Organizations, Bodies, Agencies, Authorities, Commissions, Instrumentalities, etc., that qualify as "similar Statutory or Constitutional bodies" under entry 5 of the First Schedule.
10. Indian Army.
11. Indian Air Force.
12. Indian Navy.
13. Indian Coast Guard.
14. Hon'ble Supreme Court of India.
15. Hon'ble High Court of Judicature of the States and Union Territories.
16. Ministry of Law and Justice.

STATEMENT OF OBJECTS AND REASONS

The Public Service Integrity Bill, 2023 is a legislative initiative propelled by the imperative to reinforce the ethical underpinnings governing the post-retirement engagements of individuals who have occupied pivotal positions in the realms of government, judiciary, and the armed forces. This enactment seeks to erect a robust framework that safeguards public integrity and elevates the stature of public service by introducing a substantive cooling-off period of three years for retirees from these distinguished roles.

The fundamental goal of this legislation is to institute a mandatory hiatus, wherein individuals of significant standing, upon retirement, are expressly prohibited from actively seeking or accepting governmental or Constitutional appointments for a stipulated period. This cooling-off period is conceived as a prudent mechanism to address potential conflicts of interest that may arise from the immediate transition of high-ranking officials into roles that wield considerable influence. By imposing this temporal restraint, the Bill endeavors to preserve the impartiality and credibility of appointments within public service institutions.

It is essential to underscore that the Bill, while introducing a new layer of ethical restraint, is carefully calibrated to coexist with existing norms and regulations. Expressly, the legislation acknowledges and respects the extant the Central Civil Services (Conduct) Rules, 1964, and the All India Services (Conduct) Rules, 1968 pertaining to commercial employment within one year of retirement. Additionally, Rule 9 of the Central Civil Services (Pension) Rules, 1972, which mandates government sanction for commercial employment within one year of retirement for members of Central Service Group 'A', is explicitly preserved under the aegis of this legislation. This deliberate synergy is aimed at achieving a harmonious balance between the imperative of maintaining ethical standards and the legitimate career aspirations of retired officials. Additionally, the Act provides a mechanism for exemptions through a well-defined process overseen by the Review and Exemption Panel. This exemption clause incorporates flexibility to consider exceptional cases where the expertise of retired individuals is deemed indispensable for the efficient functioning of certain bodies, ensuring a balanced approach between preserving integrity and recognizing specialized knowledge.

In essence, the Public Service Integrity Bill, 2023 is a forward-looking legislative endeavour, grounded in the principles of transparency, accountability, and ethical governance. By fortifying the ethical foundation of public service, this legislation aspires to enhance public trust in institutions, reaffirm the commitment to the highest standards of integrity, and ultimately contribute to the enduring strength of democratic governance.

Hence, this Bill.

DEREK O' BRIEN.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the establishment of a Regulatory Authority for the purpose of carrying out the provisions of this Bill. Sub-clause (2) thereof provides for the appointment of Chairperson and members therein and sub-clause (3) provides for their terms and conditions of service. Sub-clause (5) of Clause 6 provides for the appointment of such number of officers and employees as the Authority may deem necessary, to assist it in the efficient discharge of its duties and sub-clause (6) provides for their terms and conditions of service.

Sub-clause (1) of clause 11 of the Bill provides for establishment of a Review and Exemption Committee and sub-clause (2) thereof provides for appointment of Chairperson and members.

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 actual expenditure likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 20 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. X OF 2024

A Bill to provide for the protection of rights of elder persons to lead a life with dignity and financial autonomy, free from abuse, neglect and exploitation and provision of specialized care to them by framing a holistic national policy for their welfare, development and protection and those of their caregivers and establishing a National Commission and State Commissions for Elder Care at the National and State levels and for matters connected therewith and incidental thereto.

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

CHAPTER I**PRELIMINARY**

- 1.** (1) This Act may be called the Elder Persons (Care and Protection) Act, 2024.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and commencement.

Definitions.

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

(a) 'abuse' includes the infliction of physical, emotional and psychological harm; deprivation of essential goods and services, or neglect of basic needs for a respectable life;

(b) 'appropriate Government' means;

(i) in relation to the Central Government or any establishment wholly or substantially financed by that Government, or a Cantonment Board constituted under the Cantonments Act, 2006, the Central Government;

41 of 2006.

(ii) in relation to a State Government or any establishment, wholly or substantially financed by that Government, or any local authority, other than a Cantonment Board, the State Government;

(iii) in relation to a Union Territory, the Union Territory Administration.

(c) 'barrier' means any factor including attitudinal, cultural, economic, institutional, political, religious, social or structural factors which hampers the full and effective participation, of an elder person in society;

(d) "caregiver" means a person or entity who has the responsibility to care for an elder person whether voluntarily or by any contract against receipt of payment or otherwise or by the formulation of any law of the appropriate Government and includes a family member or any person or entity employed with the full consent of the elder person, immediate family and/ or the appropriate government;

(e) 'disability' means long-term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders an elder person's full and effective participation in society equally with others;

(f) "discrimination" means any distinction, exclusion, restriction on the basis of ageing which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation;

(g) "elder care" means all activities undertaken by the caregiver, fiduciary, appropriate Governments or any person or entity for the welfare of elder persons including but not limited to nutritional, emotional, psychological, physical and financial welfare;

(h) "elder person" means a person who is sixty years of age or above;

(i) "exploitation" includes financial exploitation, and means the illegal, unauthorized and fraudulent use of the resources of an elder person by any person including but not limited to caregivers and fiduciaries for the person's benefit, whether monetary or otherwise and/or deprivation of the elder persons' rights and agency to access the resources to avail of basic needs;

(j) "fiduciary" means a person or entity entrusted with the legal responsibility to make decisions on behalf of the elder person with the full consent of the elder person, immediate family and/ or appropriate Government;

(k) "National Commission" means the National Commission for Elder Care constituted under section 13 of this Act;

(l) "prescribed" means prescribed by rules and/or regulations made under this Act;

(m) "State Commission" means the State Commission for Elder Care constituted under section 22 of this Act; and

(n) "the field" for the purposes of this Act refers to elder care as defined in section 2 of this Act;

3. The appropriate Government shall, subject to the provisions of this Act and any other law for the time being in force, take the following necessary steps to secure for elder persons:

- (a) respect for the inherent right to life, dignity, and individual autonomy;
- (b) life free from abuse, neglect, and exploitation for elder persons;
- (c) freedom from discrimination in all aspects of life, including, but not limited to, employment, access to education, accommodation, and other facilities;
- (d) right to participate in education and training programs as well as social, economic, cultural, and political life;
- (e) right to work; and
- (f) right to just compensation and employment conditions suitable to their needs.

CHAPTER II

PROTECTION OF RIGHTS

4. The appropriate Government shall,—

- (a) ensure protection of the right to equality and non-discrimination of elder persons guaranteed under article 15 of the Constitution;
- (b) take necessary steps for elder persons to enjoy the right to life with dignity enshrined under article 21 of the Constitution; and
- (c) take steps to enable the basic welfare of elder persons including but not limited to their right to be respected.

5. (1) The appropriate Government shall take all necessary measures to protect elder persons from abuse or exploitation at the hands of caregivers, family members, fiduciaries or any other person or entity.

(2) Any officer of the appropriate Government, who receives a complaint from a person or entity or finds out about any instance of elder abuse or exploitation shall be responsible for—

- (i) identification and transfer of the case to authorities responsible for handling it;
- (ii) the authority as mentioned in sub-clause (i) shall be responsible towards the elder person and/or their fiduciary for:
 - (a) informing them about their rights to protection and liberty;
 - (b) introducing them to any organisation, whether private or any appropriate Government organisation, working towards protection and/or rehabilitation of elder persons;
 - (c) acquainting them with the relevant juridical authorities with the appropriate mandate to hear their case;
 - (d) providing them opportunities to access legal services without barriers; and
 - (e) assisting them in filing a complaint as per provisions in the Indian legal system:

Provided that none of the responsibilities delineated in clause (ii) shall rid the authority of their obligation to proceed with law upon recognition of a cognizable offence.

CHAPTER III

SOCIAL SECURITY, ECONOMIC SELF SUFFICIENCY, HOUSING AND AWARENESS

Social security and awareness.

6. (1) The appropriate Government shall formulate and implement policy measures to ensure the enforcement of the guiding principles as per section 3 of the Act.

(2) The appropriate Government shall take the following necessary steps to ensure that elder persons have an adequate standard of living:

(i) identify, produce, procure and provide medicines and healthcare facilities specially required by elder persons;

(ii) ensure barrier free access for elder persons, wherever possible, to healthcare services;

(iii) provide basic amenities to elder persons who do not have access to the same; and

(iv) identify, rescue and rehabilitate elder persons who have been abandoned by their fiduciaries and/or are facing abuse and/ or exploitation.

Economic self-sufficiency.

7. (1) The appropriate Government shall facilitate economic self-sufficiency of elder persons and ensure their financial inclusion within society.

(2) In accordance with sub-section (1), the appropriate Government shall,—

(i) assist elder persons, especially those without any family or caregiver, to utilise banking facilities;

(ii) simplify the provision of information and access to health and insurance schemes to elder persons;

(iii) help elder persons to avail interest free loans for healthcare services;

(iv) inform elder persons about investment opportunities and asset management;

(v) monitor income from pensions and increase it wherever necessary in order to match the rising prices of goods and services; and

(vi) create an environment for elder persons to participate in remunerative economic activity and provide adequate funds for the same including incentivising employers to hire elder persons with experience in specialised fields.

Housing for Elder persons.

8. (1) The appropriate Government shall take appropriate measures to provide residential facilities to elder persons who are abandoned and/or deprived of the same.

(2) The housing facilities shall be modelled along elder-friendly construction guidelines with emphasis on developing elder communities for elder persons to live and participate in.

Awareness Programme.

9. (1) The appropriate Government shall be responsible for designing programmes to spread awareness in the community about the hurdles faced by elder persons.

(2) The awareness campaign shall include, but not be limited to, easily interpretable information on diseases prevalent in elder persons, sensitisation of the younger generation towards the needs of the elderly, rights of elder persons including the right to respect and life with dignity, economic opportunities for elder persons in society and promotion of the value of senior persons in social activities.

(3) The Central Government shall establish and operate a National Helpline for provision of information and/or emergency assistance to elder persons and generate awareness about the same.

(4) In accordance with sub-section (3), State Helplines and local emergency help centres shall be constituted to address the calls of elder persons and provide immediate assistance

as and when required, according to such regulations as laid down by the State Commission.

CHAPTER IV

ELDER PERSONS FUND

10. (1) The appropriate Government shall establish and maintain an Elder Persons Fund, in every district in the country, in such manner as may be prescribed, for the purposes of implementing the provisions of this Act. Elder
Persons Fund.

(2) The Elder Persons Fund shall be utilised for financing district level awareness programmes, organising community events for elder persons to participate in, provide loans to elder persons to engage in remunerative economic activity, providing financial assistance to avail of medical emergencies, assisting elder persons who cannot afford basic goods and services and/or for any other purpose deemed to be necessary by the appropriate Government in accordance with the objectives of this Act.

(3) The Fund shall be credited with,—

(i) such sums of money to be paid by the appropriate Government, from time to time, after due appropriation made by Parliament or the State Legislature, as the case may be, by law in this behalf, as may be necessary, to carry out the purposes of this Act.

(ii) voluntary contributions received from the citizens of the country, in such manner as may be prescribed.

CHAPTER V

EDUCATION

11. (1) The appropriate Government shall take all necessary steps to provide for education and re-skilling opportunities for elder persons. Education and
re-skilling.

(2) Central or State funded Universities shall provide accessible opportunities for elder persons to pursue and complete education in any of the courses offered at the institution.

(3) The appropriate Government shall identify core skills to increase employability and design re-skilling programmes to increase employment opportunities amongst elder persons.

(4) The appropriate Government shall put in place adequate safeguards against discrimination in the hiring process of elder persons once trained in the re-skilling programmes.

CHAPTER VI

RIGHTS OF CAREGIVERS

12. (1) The appropriate Government shall ensure that the rights of caregivers are preserved in the process of providing care to elder persons. Rights of
caregivers.

(2) The services of the national helpline and local emergency help centres, as mentioned in sub-sections (3) and (4) of section 9 shall be extended to caregivers to report instances of abuse or exploitation from the elder person, their friends and family and/ or any fiduciary thereof.

(3) The appropriate Government shall appoint specially trained staff in the National Helpline and at each local emergency help centre to sensitively handle the complaints of minor caregivers.

(4) The salaries and allowances payable to, qualification and experience required and terms and conditions of service of the staff to be appointed under sub-section (3) shall be such as may be prescribed.

CHAPTER VII

NATIONAL COMMISSION FOR ELDER CARE

National
Commission
for Elder
Care.

13. (1) The Central Government shall, with effect from the appointed day, by notification in the official Gazette, constitute a body henceforth referred to as the National Commission for Elder Care to exercise the powers conferred upon and to perform the functions as assigned to it, under this Act.

(2) The National Commission shall consist of the following members, namely:

(a) an eminent figure with reputable service in the field of elder person caregiving and welfare—Chairperson;

(b) a distinguished individual with recognised service in the field of medicine and healthcare—Vice-Chairperson;

(c) five representatives from the following categories, to be nominated by the Central Government in such manner as may be prescribed—

(i) Senior Citizen's Association;

(ii) Pensioner's Association;

(iii) Non-Governmental Organisation working for Senior Citizens;

(iv) Senior member from the transgender community;

(v) Senior member from the community of persons with disability:

Provided that fifty per cent. of the nominees under sub clauses

(a) to (c) shall be women.

(3) In the event of vacancy or incapacity of the Chairperson of the National Commission and until such time that a new Chairperson is appointed, the Vice-Chairperson shall act as the interim Chairperson.

Selection
Committee.

14. (1) The Chairperson and Members shall be appointed by the President after obtaining the recommendations of a Selection Committee consisting of—

(a) the Prime Minister—Chairperson;

(b) the Speaker of the House of the People—Member;

(c) the Deputy Chairman of the Council of States—Member;

(d) the Leader of the Opposition in the House of the People—Member;

(e) the Leader of the Opposition in the Council of States—Member, and

(f) the Chief Justice of India, or any other Justice of the Supreme Court nominated by the Chief Justice on his behalf—Member.

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Selection Committee.

(3) The Selection Committee shall for the purposes of selecting the Chairperson and Members of the National Commission and for preparing a panel of persons to be considered for appointment as such, constitute a Search Committee consisting of at least seven persons of standing and having special knowledge and expertise in the matters relating to elder care, disability rights, healthcare, policy making, psychology, law and management or in any other matter which, in the opinion of the Selection Committee may be useful in making the selection of the Chairperson and Members of the National Commission:

Provided that not less than fifty per cent. of the members of the Search Committee shall be from amongst persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Minorities and women.

(4) The Selection Committee shall regulate its own procedure in a transparent manner for selecting the Chairperson and Members of the National Commission.

(5) The term of office of the Search Committee referred to in sub-section (3), the fees and allowances payable to its members and the manner of selection and preparation of the panel of names shall be such as may be prescribed.

15. (1) The members of the National Commission shall hold office for a term of four years from the date on which they enter upon their office. Term of office and conditions of service.

(2) The members shall be eligible for a one-year extension of their term subject to the recommendations of the Selection Committee.

(3) The salaries and allowances payable to and other terms and conditions of service of the members of the National Commission shall be such as may be prescribed.

16. (1) Any Member of the National Commission may, by notice in writing addressed to the President, resign from their office. Resignation and Removal.

(2) Subject to the provisions of sub-section (1), any Member of the National Commission shall be removed from their office only by an order of the President on the grounds of proven misbehaviour or incapacity after thorough inquiry via due procedure.

(3) Notwithstanding anything contained in sub-section (2), the President may, by order, remove from office any member of the National Commission, as the case may be, if the member:—

(a) is adjudged an insolvent; or

(b) engages in employment during their tenure that adversely affects the Commission and/ or its functioning; or

(c) is convicted and sentenced to imprisonment for any offence.

17. (1) In the event of any vacancy in the office of the Chairperson or Vice-Chairperson due to any reason, the President may, by notification, authorise any two members to take up their responsibilities until appointment is made to fill such vacancy(ies). Vacancy.

(2) If the Chairperson and Vice-Chairperson are unable to discharge their functions, the President may, by notification, authorise any two members to discharge their functions until resumption of duties by the incumbents.

18. The Commission shall perform all or any of the following functions, namely:— Functions of the National Commission.

(a) identify, suo-moto, or on a representation received, provisions of any laws, policies, programmes and procedures, which are inconsistent with this Act, and recommend necessary corrective steps;

(b) monitor developments in fields relating to elder persons including but not limited to medicine, healthcare and economic opportunities;

(c) undertake research and collect, maintain and furnish information and data pertaining to various aspects of the lives of elder persons including but not limited to information about effectiveness of insurance and pension schemes, cost of living across the country for elder persons, violations of rights of elder persons, etc.;

(d) inquire, suo-moto or on a complaint received from any person regarding any violation of rights of elder persons for which the Central Government is the appropriate Government and pursue the matter via due procedure;

(e) periodically review the provisions of this Act vis-à-vis international developments and make recommendations for updating them as and when necessary to accommodate developments in the field;

(f) regularly liaison with stakeholders including individuals and/ or organisations working in the field of elder rights and elder care to understand the evolving nature of the field;

(g) monitor disbursement of funds for and implementation of the provisions of this Act including awareness campaigns and national and state helplines and other such programmes intended for the benefit of elder persons;

(h) recommend to the concerned authorities including Departments of the Central Government to undertake any such policy or programme that may be beneficial for elder persons as deemed by the Commission:

Provided that the authorities must respond within a period of two months from the date of receipt of the recommendation regarding acceptance of the said recommendation or rejection with reasons, as the case may be; and

(i) monitor, make recommendations to and review the work of the State Commissions as established under section 22 of this Act.

Secretary to
the National
Commission.

19. (1) The Central Government shall make available to the National Commission an officer of the rank of an Additional Secretary to the Government of India, who shall be the Secretary to the National Commission.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Commission may appoint such other administrative and technical officers and staff, as it may consider necessary, to assist it in the discharge of its duties and functions.

(3) The salaries and allowances payable to and other terms and conditions of service of the officers and staff appointed under sub-section (2), shall be such as may be prescribed.

Meetings of
the National
Commission.

20. (1) The National Commission shall meet at such time and place as the Chairperson may think fit.

(2) Subject to the provisions of this Act and the rules made thereunder, the National Commission shall have the power to lay down regulations establishing its own procedure.

(3) All orders and decisions of the National Commission shall be authenticated by the Secretary or any other officer thereof duly authorised by the Chairperson in this behalf.

Annual report.

21. (1) The National Commission shall prepare in such form and at such time each calendar year, an annual report giving a full account of its activities during the previous year and submit the report to the Central Government and in addition, may submit special reports on any matter of urgent importance, in such manner as may be prescribed.

(2) The Central Government shall cause the annual and special reports of the National Commission to be laid before each House of Parliament, along with a memorandum of the action taken or proposed to be taken on the recommendations of the Commission, and the reasons for non-acceptance of the recommendations, if any.

CHAPTER VIII

STATE COMMISSIONS FOR ELDER CARE

State
Commission
for Elder Care.

22. (1) Every State Government shall with effect from the appointed day, by notification in the official Gazette, constitute a State Commission for Elder Care, to exercise the powers conferred upon and to perform the functions as assigned to it under this section.

(2) The State Commission shall consist of—

(a) an eminent figure with reputable service in the field of elder person caregiving and welfare—Chairperson;

(b) a distinguished individual with recognised service in the field of medicine and healthcare —Vice-Chairperson;

(c) five representatives from the following categories, to be nominated by the State Government in such manner as may be prescribed—

(i) Senior Citizen's Association;

(ii) Pensioner's Association;

(iii) Non-Governmental Organisation working for Senior Citizens;

(iv) Senior member from the transgender community; and

(v) Senior member from the community of persons with disability:

(3) In the event of vacancy or incapacity of the Chairperson of the State Commission, until such time that a new Chairperson is appointed, the Vice- Chairperson shall act as the interim Chairperson.

(4) Appointments to all positions shall be made by the respective State Government on the recommendation of a Selection Committee, as may be prescribed by the State Legislature of each State, within six months of the date of commencement of this Act.

23. (1) The members of the State Commission shall hold office for a term of four years from the date on which they enter upon their office.

Term of office and conditions of service.

(2) The Members shall be eligible for a one year extension of their term subject to recommendations of the Selection Committee.

(3) The salaries and allowances payable to and other terms and conditions of service of the members of the State Commission shall be such as may be prescribed.

Resignation and removal.

24. (1) Any Member of the State Commission may, by notice in writing addressed to the Governor of that State, resign from their office.

(2) Subject to the provisions of sub-section (1), any Member of the State Commission shall be removed from their office only by an order of the Governor on the grounds of proven misbehaviour or incapacity after thorough inquiry via due procedure;

(3) Notwithstanding anything contained in sub-section (2), the Governor may, by order, remove from office any member of the State Commission, as the case may be, if the member:—

(a) is adjudged an insolvent; or

(b) engages in employment during their tenure that adversely affects the Commission and/ or its functioning; or

(c) is convicted and sentenced to imprisonment for any offence.

25. (1) In the event of any vacancy in the office of the Chairperson or Vice- Chairperson of the State Commission due to any reason, the Governor of that State may, by notification, authorise any two members to take up their responsibilities until appointment is made to fill such vacancy(ies).

Vacancy.

(2) If the Chairperson and Vice-Chairperson are unable to discharge their functions, the Governor may, by notification, authorise any two members to discharge their functions until resumption of duties by the incumbents.

26. (1) The State Commission shall perform such functions as assigned to the National Commission under section 18 of this Act, except for clauses (h) and (i), while construing all references therein to the Central Government as pertaining to the respective State Governments.

Functions of the State Commission.

(2) The State Commissions shall be responsible for establishing and operating State emergency helplines and local help centres for elder persons as laid down under this Act.

(3) The State Commission shall consult with and report to the National Commission suo-moto or on the request of the National Commission on matters pertaining to the field of elder care.

Secretary to
the
Commission.

27. (1) The State Government shall make available to the State Commission, an officer of the rank of Secretary to the State Government of India, who shall be the Secretary to the State Commission.

(2) Subject to such rules as may be made by the State Government in this behalf, the State Commission may appoint such other administrative and technical officers and staff, as it may consider necessary, to assist it in the discharge of its duties and functions.

(3) The salaries and allowances payable to and other terms and conditions of service of the officers and staff appointed under sub-section (2), shall be such as may be prescribed.

Meetings of
the State
Commission.

28. (1) The State Commission shall meet at such time and place as the Chairperson may think fit.

(2) Subject to the provisions of this Act and the rules made thereunder, the State Commission shall have the power to lay down regulations establishing its own procedure.

(3) All orders and decisions of the State Commission shall be authenticated by the Secretary or any other officer of the State Commission duly authorised by the Chairperson in this behalf.

Annual report.

29. (1) The State Commission shall prepare in such form and at such time each calendar year, an annual report giving a full account of its activities during the previous year and submit the report to the respective State Government and in addition, may submit special reports on any matter of urgent importance, in such manner as may be prescribed.

(2) The respective State Government shall cause the annual and special reports of the State Commission to be laid before one or more houses of the State Legislature, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission, and the reasons for non-acceptance of the recommendations, if any.

CHAPTER IX

OFFENCES AND PENALTIES

Offences and
Penalties

30. (1) Whoever knowingly obstructs the implementation of the provisions laid down in 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 a prison sentence of not less than six months extendable to two years and/ or a fine of not less than rupees twenty thousand extendable to rupees two lakh.

(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 as highlighted in sub-section (1) 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 X

MISCELLANEOUS

- 31.** The appropriate Government shall, after due appropriation made by Parliament and the State Legislature, as the case may be, by law, provide adequate funds, for carrying out the purposes of this Act. Appropriate Government to provide funds.
- 32.** The provisions of this Act or the rules made there under shall be in addition to and not in derogation of any other legislation, rules, orders or instructions made with respect to elder persons. Act to supplement other laws.
- 33.** No suit, prosecution or other legal proceeding shall lie against any person for anything which is done in good faith or intended to be done under this Act or any rule made thereunder. Immunity from prosecution.
- 34.** (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 provisions consistent with the Act for removing the difficulty: Power to remove difficulties.
- Provided that no such order shall be made after the expiry of the period of a year from the date of commencement of this Act;
- (2) Every order made under this section shall be laid before both the Houses of Parliament when in session and in the first week of the session immediately preceding the date of the order when not in session.
- 35.** (1) The appropriate Government may, by notification, make rules for carrying out the provisions of this Act subject to its provisions after consultation with relevant stakeholders as identified by them. Power of appropriate Government to make rules.
- 36.** The National Commission, State Commissions and the Selection Committees constituted under this Act may, by notification in the Official Gazette, make regulations, consistent with the provisions of this Act and the rules made thereunder, to implement the provisions of this Act. Power of the National Commission, State Commissions and Selection Committees to make regulations.
- 37.** (1) Every rule made by the Central Government and every regulation made by the National Commission and the Selection Committee 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, as the case may be, or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation, as the case may be, 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, as the case may be. Laying of rules and regulations.
- (2) Every rule made by the State Government and every regulation made by the State Commission under this Act 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

There has been a significant shift in demographic patterns across the world in the 21st Century with people leading far longer lives than the previous generation. In India, the population share of persons aged over 60 has been increasing at an increasing rate over the last few years and is expected to do so in the coming decades as well. With the increased life expectancy, empirical studies show that the youthful demographic bulge, considered a demographic dividend, would transform into a gerontological bulge as the population of persons above the age of 60 years and 80 years will increase by 326 per cent. and 700 per cent. respectively by the year 2050. Besides, the fast changing social matrix is increasingly impacting adversely the care, dignity and independence of the elders.

On the global front, the situation of older persons was highlighted for the first time at the World Assembly on Ageing in 1982 in Vienna wherein International Plan of Action on Ageing was adopted. It served as an international blue print for development of policies and programmes on ageing. Later, the United Nations Principles for Older persons were adopted by General Assembly Resolution 46-91 of 16th December, 1991. With the adoption of the Madrid International Plan of Action on Ageing in 2002 during the second world assembly on ageing, consistent efforts are being made to build a society for all ages.

The well-being of older persons was enshrined in the Constitution of India much before it was raised in the international forum. Article 41 of the Constitution enjoins that "The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of underserved want."

However, the focus on caring for the elderly has been inadequate with little attention given to creating environments for the development of elderly people. With their children migrating to metropolitan cities seeking jobs, parents are often left without company and support in their old age. India lacks dedicated government departments dealing with the various facets of ageing including providing accessible healthcare services, redressal systems and financial opportunities. Furthermore, old age is seen as a burden in many households with senior members being cast out of their homes or left in institutions for the elderly away from their family.

Accordingly, this Bill seeks to rewrite the narrative surrounding ageing in Indian society by proposing the development of a positive outlook on ageing. It facilitates protection and preservation of the rights of elderly citizens of the country and provides for the sensitization of the population at large about the challenges faced by the elders in our community. Economic opportunities for senior citizens are also stressed upon as financial security is crucial in old age with increasing costs of medical expenditure. The formation of national and state level Commissions for the elderly allows for streamlining provision of services, addressing complaints and improving the standard of living for elderly citizens. Rights of caregivers working for the elderly are also incorporated within the Bill. The superlative societal value of our senior citizens cannot be ignored as we take strides towards becoming a global superpower in the coming years.

Hence this Bill.

DEREK O'BRIEN.

FINANCIAL MEMORANDUM

Clause 6 of the Bill enjoins upon the appropriate Government to take necessary steps to ensure that elder persons have an adequate standard of living. Clauses (v) and (vi) of sub-section (2) of Clause 7 of the Bill provides that the appropriate Government shall ensure financial security of elder persons and sub-section (1) of Clause 8 provides that the appropriate Government shall take necessary measures to provide them with residential facilities. Clause 9 of the Bill provides for setting up of a National Helpline, State Helplines and local emergency help centres for providing assistance to the elder persons. Clause 10 provides for setting up of a Elder Persons Fund. Clause 12 provides for the salary and allowances of the staff appointed at the local emergency help centers. Clause 13 provides for the setting up of a National Commission for Elder Care and Clause 15 provides for the salaries and allowances to be paid to the members thereof. Clause 19 provides for the salaries and allowances for the administrative and technical staff of the National Commission. Clause 22 provides for the setting up of State Commissions for Elder Care and Clause 23 provides for the salaries and allowances to be paid to the members thereof. Clause 27 provides for the salaries and allowances of the administrative and technical staff of the State Commissions. Clause 31 makes it obligatory for the appropriate Government to provide requisite funds to carry out the provisions of the Bill.

The Bill, if enacted, will involve expenditure, both of recurring and non-recurring nature, from the Consolidated Fund of India. However, it is not possible at present to estimate the actual expenditure that is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 34 of the Bill empowers the Central Government to make provisions through an order to remove any difficulties likely to arise in giving effect to the provisions of the Bill, if enacted. Clause 35 empowers the appropriate Government to frame rules to carry out the provisions of the Bill. Clause 36 empowers the National Commission, State Commissions and Selection Committees to make regulations, consistent with the provisions of this Bill and the rules made thereunder, to carry out the provisions of this Bill. As the rules, regulations and order(s) will relate to matters of details only, the delegation of legislative power is of a normal character.

BILL NO. LXV OF 2023

A Bill further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2023.

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. For article 155 of the Constitution, the following be substituted, namely:—

Substitution of article 155.

"155.—The Governor of a State shall be appointed by the President by warrant under his hand and seal in consultation with a Committee comprising the Prime Minister of India, Chief Justice of India and Chief Minister of the concerned State:

Appointment of Governor.

Provided that if the same person is appointed as Governor of two or more States, the Chief Ministers of the concerned States shall also be included in the Committee."

Insertion of
new article
156A.

3. After article 156, the following article shall be inserted, namely:—

Procedure for
impeachment
of the
Governor.

"**156A.** (1) When a Governor is to be impeached for violation of the Constitution, the charge shall be preferred by either the State Legislative Assembly or the State Legislative Council, if any.

(2) No such charge shall be preferred unless-

(a) the proposal to prefer such charge is contained in a resolution which has been moved after at least fourteen days' notice in writing signed by not less than one-fourth of the total number of members of the Assembly or the Council, as the case may be, has been given of their intention to move the resolution, and

(b) such resolution has been passed by a majority of not less than two-thirds of the total membership of the Assembly or the Council, as the case may be.

(3) In the case of a bicameral legislature, when a charge has been so preferred by either House of the State legislature, the other House shall investigate the charge or cause the charge to be investigated and the Governor shall have the right to appear and to be represented at such investigation.

(4) If as a result of the investigation, a resolution is passed by a majority of not less than two-thirds of the total membership of the Assembly or the Council, as the case may be, by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the Governor has been sustained, such resolution shall have the effect of removing the Governor from his office as from the date on which the resolution is so passed."

Substitution
of article 200.

4. For article 200, the following article shall be substituted, namely:—

Assent to Bills.

"**200.** When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President, within a span of four months from the date on which the Bill was presented to the Governor:

Provided that the Governor may, within the stipulated time span, return the Bill if it is not a Money Bill together with a message requesting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the House or Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom:

Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in the opinion of the Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by this Constitution designed to fill."

Substitution
of article 201.

5. For article 201, the following article shall be substituted, namely:—

Bills reserved
for
consideration

"**201.** When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom, within a span of six months from the date on which the Bill was presented to the President:

Provided that, where the Bill is not a Money Bill, the President may, within the stipulated time span, direct the Governor to return the Bill to the House, or as the case may be, the Houses of the Legislature of the State together with such a message as is mentioned in the first proviso to Article 200 and, when a Bill is so returned, the House or Houses shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the House or Houses with or without amendment, it shall be presented again to the President for his consideration forthwith."

STATEMENT OF OBJECTS AND REASONS

1. One of the most significant constitutional positions, the Office of the Governor has been fully covered in articles 153 to 167 of the Indian Constitution.

2. The President of India appoints the Governor of a State by warrant bearing his signature and seal (article 155). This typically means that the President follows the Union Council of Ministers' recommendations, which may be biased in favor of the welfare of the state if the ruling party at both the Union and State levels is different. A Committee should be established to select the Governor, as suggested by the Sarkaria Commission and the National Commission to Review the Working of the Constitution. Therefore, it is suggested in this Bill that the Committee should be made up of the Prime Minister, the State's Chief Minister, and the Chief Justice of India and it is necessary to amend article 155 in order to carry out this suggestion. This would strengthen India's federal structure and prevent rifts between the Governor and the State Government, which have become widespread in recent years.

3. The impeachment of the Governor is not permitted by the Indian Constitution. The President and Governor are not chosen by the general public in a direct election. However, unlike the President, who is chosen by an electoral college, the Governor is not chosen by the same process. However, article 61 of the Constitution allows for the President's impeachment. Therefore, a procedure for the Governor's impeachment is also required, in the event that the Governor does not act in accordance with the wishes of the State Government and the State's citizens. The process for impeaching the Governor may resemble that for impeaching the president.

4. When a Bill is presented to the Governor for his/her assent, he/she has four options:

- Give assent to the Bill
- Withhold assent to the Bill
- Send back to the State legislature for reconsideration
- Reserve the Bill for President's assent

In all the above four options, there is no time-frame for the Governor within which he/she should make a decision. This leads to piling up of bills before the Governor which will be detrimental to the welfare of the people of the State. Hence, a time frame is required for efficient policy implementation.

5. There is no time frame for the President to decide how to proceed when a Bill is reserved for the President's consideration by the Governor. This results in a backlog of Bills that the President must deal with, which is bad for the state's citizens' wellbeing. Therefore, a time frame is required to limit such unwelcome delays.

6. The Bill seeks to achieve the aforesaid objectives.

PRIYANKA CHATURVEDI.

BILL NO. I OF 2024

A Bill further to amend the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

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

1. (1) This Act may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Amendment Act, 2024. 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.

Amendment
of section 9

2. In the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as the principal Act), in section 9:—

14 of 2013

(a) in sub-section (1), for the words "within a period of three months from the date of incident" and "within a period of three months from the date of last incident", the words "within a period of one year from the date of incident" and "within a period of one year from the date of last incident" respectively, shall be substituted; and

(b) in the second proviso to sub-section (1), the words "not exceeding three months" shall be omitted.

Omission of
section 10.

3. In the principal Act, section 10 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 represents a significant step towards protection of women against sexual harassment at the workplace. However, considering the lived experiences of the women workforce and the realities of the modern workplace, the Act needs to address two important issues.

Pensions Section 9 stipulates a limitation period of three months for filing complaints, further extendable by three months, provided that the Internal Committee or Local Committee (as the case may be) is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period. This limitation period is inapposite since in cases involving sexual harassment, women may be so traumatised as to render filing of the complaint impossible until such time they have recouped their strength. Placing a maximum limit of six months on such complaints does great injustice to the aggrieved woman.

Section 10 provides the aggrieved woman with the option of settling the complaint through conciliation. This provision is highly problematic since it fails to take into account the possibility of influencing, coercing, pressuring or intimidating the complainant to arrive at a settlement. While there are certain areas (such as contractual matters) where conciliation may be fruitful, an attempt to reach a compromise in matters of sexual harassment of women greatly undermines the dignity of women.

This Bill intends to remedy these problems by amending the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. It provides that the basic limitation period for filing complaints shall be fixed at one year, which shall be further extendable, without any upper limit, by the Internal Committee or Local Committee (as the case may be), upon satisfaction that the circumstances prevented the woman from filing the complaint within the limitation period. Additionally, it proposes the deletion of the provision for conciliation in its entirety.

This Bill seeks to achieve the above objectives.

SASMIT PATRA.

BILL NO. IV OF 2024

A Bill further to amend the Indian Contract Act, 1872.

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

Short title and commencement.

1. (1) This Act may be called the Indian Contract (Amendment) Act, 2024.

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

Amendment of section 15.

2. In Section 15 of the Indian Contract Act, 1872:—

9 of 1872.

(i) for the words "any act forbidden by the Indian Penal Code", the words "any act, the committing of which or threatening to commit which is punishable by any law for the time being in force", be substituted.

(ii) the marginal entry "45 of 1860" shall be omitted.

(iii) in the *Explanation*:—

(a) for the words "the Indian Penal Code", the words "the law violated", be substituted.

(b) the marginal entry "45 of 1860" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The definition of 'Coercion' provided for in the Indian Contract Act, 1872 is not exhaustive. It does not apply to situations in modern times where coercion can be induced through numerous ways. The 13th Report of the Law Commission of India, which was chaired by Shri M. C. Setalvad, also suggested amending the current definition under Section 15 to make it comprehensive.

2. Currently, the definition focuses on the words "any act forbidden by the Indian Penal Code". The purpose of the Indian Penal Code, 1860, which has now been repealed and replaced by the Bharatiya Nyaya Sanhita, 2023 is to create offences and not merely forbid them. There are laws other than the Bharatiya Nyaya Sanhita performing the same function. So far it has been up to the courts to interpret the meaning of the phrase in question and differentiate between "forbidden by the Indian Penal Code" and "punishable by the Indian Penal Code". This kind of interpretation varies from court to court thereby creating discrepancies.

3. The current definition is problematic as firstly, the Bharatiya Nyaya Sanhita only declares offences "punishable" and not "forbidden" and secondly, in the present context, there are many laws that define and punish offences in India. The present definition must be replaced with a wider expression covering all the offences forbidden by law in India.

Hence this bill.

SASMIT PATRA.

BILL NO. V OF 2024

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

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

Short title and commencement.

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2024.

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

2. In the Representation of the People Act, 1951, after section 127A, the following new sections shall be inserted, namely,—

Paying for news.

"127B. (1) Any person who is found paying for news, or receiving payment for news shall be punished with imprisonment for a term which may extend to three years, and with fine, which may extend to twenty-five lakh rupees.

(2) Nothing contained in sub-section (1) shall apply to payments made by registered political parties for the management of official publications (print, radio, television and all other electronic media) owned or controlled by them.

(3) To avail of the exemption under sub-section (2), all registered political parties must disclose their interests in any publication in the form and manner notified by the Election Commission of India in this regard.

(4) An attempt to commit an act punishable under sub-section (1) shall be punished with imprisonment for a term, which may extend to two years, or with fine, which may extend to ten lakh rupees, or with both.

(5) No court shall take cognisance of any offence punishable under this section unless there is a complaint made by order of, or under authority from, the Election Commission of India or the Chief Electoral Officer of the State concerned.

127C. (1) Any political advertisement in any media shall carry a disclosure to this effect in the form and manner notified by the ECI in this regard.

Non-disclosure of interest in political advertising.

(2) Any person who contravenes the provision of sub-section (1) shall be punishable with imprisonment for a term, which may extend to six months, or with fine, which may extend to five lakh rupees, or both.

127D. (1) Where an offence under sub-section (1) of section 127B has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm."

STATEMENT OF OBJECTS AND REASONS

The influence money exerts in corrupting the democratic process is undeniable and sadly, this is true now, more than ever. In our increasingly connected, media heavy world, political advertisements are omnipresent and an essential part of any campaign. Unregulated, they provide a platform for candidates to propagate patent untruths. This severely undermines the right to accurate information based on which a voter can make his or her decision. The seriousness of these issues is amplified by the extent to which it has become a systematic part of promoting one's election. The money spent on unethical paid news and disguised political advertisements, is rising at an exponential rate in both national as well as regional media.

In *PUCL v. Union of India* (2003) 4 SCC 399, the Supreme Court held that availability of impartial, proper and relevant information about the election candidates fosters and promotes freedom of speech and expression. Paid news distorts this right. As per the 2010 Press Council Sub-Committee report on Paid News, it was suggested that the act of publishing news items in exchange for consideration should be construed as electoral malpractice with a punishment of minimum 2 years imprisonment. The Election Commission of India in its 2012 circular, which was later incorporated in the Handbook for Media for Lok Sabha General Elections, proposed that the Representation of the People Act, 1951, should be amended to prevent the publishing and abetment to publish any paid news for furthering the prospects of a candidate's election. In 2014, TRAI in its recommendations on media ownership also recommended that the term 'paid news' should be comprehensively defined and a proper framework for scrutinizing complaints and taking punitive actions should be established.

In the United Kingdom, there is a blanket ban on telecasting paid political advertisements on television and radio. This prohibition also extends to any advertisement which tends to influence public opinion on a matter of general controversy. As per the Commonwealth Electoral Act, 1918 of Australia, it is mandatory for unfolding the details of any electoral advertisement, handbill, pamphlet, poster or notice that contains electoral matter. Similarly in Canada, the Canada Election Act, 2000, sets provisions for adequately disclosing the details of any electoral advertising.

Currently, the guidelines for disclosing political paid advertisements are not adequately framed and uniform. To check disguised paid political advertisements, the disclosure provisions have to be made compulsory for all media firms to assist the public in identifying the nature of content (whether sponsored or editorial content) and keep a vigilant track of transactions between the media and election candidates.

Hence, this Bill.

SASMIT PATRA.

BILL NO. XV OF 2024

A Bill to provide for the regulation and licensing of media services and facilitate development of free and independent media services in the country by establishing an independent authority to be known as the Indian Board of Media Services and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Indian Media Services (Regulation and Licensing) Act, 2024. 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 the context otherwise requires,— Definitions.

(a) "Board" means Indian Board of Media Services established under section 4 of this Act.

(b) "citizen" means any citizen of India;

(c) "media services" means the services provided by any person(s) or entity professionally or otherwise engaged in the collection, processing and dissemination of information, news or entertainment to the general public as well as collection of and dissemination of public opinion through print, electronic or digital media such as newspaper, magazine, other publication, radio, cable or satellite television, internet, Over-The-Top (OTT) platforms or other medium of mass communication;

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

(e) "service provider" means any person(s) or public or private sector entity, who are providing media services.

Licensing of
Media
Services.

3. No service provider shall operate after one year from the commencement of this Act, unless a license therefore has been obtained or intimation provided, in such form and manner, as may be prescribed by the Central Government, in accordance with the provisions of this Act:

Provided that the licenses issued to media services by the Central Government, from time to time in accordance with guidelines issued in this regard prior to the commencement of this Act, shall be deemed to be licenses obtained under the provisions of this Act from the respective date of issue of such license, and shall be valid till the date of expiry of the original license agreement.

Provided further that service provider(s), who have obtained licenses prior to the commencement of this Act, shall submit an intimation in this regard, within such time and containing such details in such form and manner, as may be prescribed by the Board.

Establishment
of the Indian
Board for
Media
Services.

4. (1) The Central Government shall, within six months of the commencement of this Act, by notification in the Official Gazette, establish for the purposes of this Act, an autonomous body to be known as the Indian Board for Media Services, to regulate the functioning of media services and foster free and independent media services in the country.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to contract and shall, by the said name, sued and be sued.

(3) The head office of the Board shall be at such place as the Central Government may, by notification in the Official Gazette, specify and the Board may, with the previous approval of the Central Government, establish offices at such other places in India.

(4) The Board shall consist of the following, to be appointed by the President of India by warrant under his hand and seal, on the recommendation of a Selection Committee, as specified under section 5 of the Act:—

(a) an eminent journalist with an illustrious career record of 15 years or more — Chairperson;

(b) an eminent academician from the field of media studies and research Member;

(c) a member of the Telecom Regulatory Authority of India — Member, *ex-officio*;

(d) a member of the Press Council of India — Member, *ex-officio*;

(e) a member of the News Broadcasting and Digital Standards Authority — Member, *ex-officio*.

(f) an officer not below the rank of Deputy Secretary in the Ministry of Information and Broadcasting — Member, *ex-officio*; and

(g) an officer not below the rank of Deputy Secretary in the Ministry of Home Affairs — Member, *ex-officio*.

(5) The Board shall have the power to regulate its own procedure for transaction of its business and frame regulations, as deemed necessary, for carrying out the duties and functions as assigned to it under this Act.

5. (1) The Selection Committee shall consist of the following, namely:—

Selection
Committee.

(a) the Prime Minister—Chairperson;

(b) the Leader of the Opposition in the House of the People or where there is no such Leader of Opposition, then, the Leader of single largest Opposition Party in the House of the People -Member;

(c) the Union Minister of Information and Broadcasting -Member; and

(d) one judge of the Supreme Court to be nominated by the Chief Justice of India-Member.

(2) The Selection Committee shall regulate its own procedure in a transparent manner for selecting the Chairperson and Members of the Board.

(3) No appointment of the Chairperson or any Member of the Board shall be invalid merely by reason of any vacancy in the Selection Committee.

6. (1) The Chairperson and the Members shall function as full-time Members of the Board, irrespective of their status in their parent organization(s) and shall hold office for a term of five years from the date on which they enter upon their offices.

Term of
office and
other
conditions of
service of the
Chairperson
and Members.

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

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or any Member, as the case may be, shall be varied to his disadvantage after his appointment.

7. (1) The Chairperson or any other member may, at any time, by writing under his hand addressed to the President, resign from his office and on such resignation being accepted by the President, the Chairperson or Member shall be deemed to have vacated his office with effect from the date of acceptance of such resignation.

Removal and
Resignation.

(2) The Chairperson and Members shall not be removed from their office except by an order of the President and in such manner and on such grounds as provided in clause (4) of article 124 of the Constitution for the removal of a Judge of the Supreme Court.

8. (1) The Board may appoint such number of officers and staff, as it considers necessary for the efficient discharge of its functions under this Act.

Officers and
employees of
the Board.

(2) The methods of recruitment and qualifications for service, salary and allowances payable to and other terms and conditions of service of the officers and staff of the Board shall be such as may be determined by regulations.

9. The Board shall exercise the following powers, namely:—

Powers of the
Board.

(a) grant the licenses required for the functioning of media services in the country, in accordance with the provisions of this Act;

(b) refuse to grant licenses under the provisions of this Act or terminate the functioning of any media service by revoking licenses issued prior to the commencement of this Act under the existing guidelines at that time, if it is of the considered opinion that the content of the channel is likely to threaten the security and integrity of the State or disturb the peace and harmony or public order in the whole or a part of the

country, or on violation of other conditions as may be prescribed by the regulations framed under the Act:

Provided that no such order for refusal or revocation of license shall be issued without giving a reasonable opportunity to the media service concerned of being heard;

Provided further that any urgent request to terminate the functioning of any media service received from the Central or State Governments shall be examined by the Board within forty-eight hours of the receipt of such request and a decision given thereon, which shall be binding and enforceable.

(c) formulate rules and regulations for the monitoring, regulation and licensing of media services and service providers in the country while ensuring their independence, within the framework of the existing legislation in this regard and in accordance with the policy guidelines prescribed by the Central Government;

(d) formulate and notify the terms and conditions for grant of licenses and other permissions required for the functioning of media services and various categories of service providers in the country; and

(e) receive grievances and complaints regarding the functioning of media services and service providers and after due examination redress such grievances or take appropriate punitive action, wherever deemed necessary.

Functions of
the Board.

10. The Board shall perform the following functions, namely:—

(a) monitor whether service providers are offering media services transparently upholding the democratic and pluralist values, as prescribed by the rules and regulations formulated by the Board in this regard;

(b) take necessary steps to bring together and convene structured dialogues amongst media service providers, policy makers, citizens and social activists for improving media services;

(c) lay down the Content Code, encompassing guidelines and standards for the creation and dissemination of media content and procedures to be followed for content certification by the service providers, as may be specified in the regulations and effectively monitor its implementation;

(d) recommend appropriate penalties for media services, service providers and any person(s), who act in contravention of any of the provisions of this Act; and

(e) perform such other functions including administrative and financial functions, as may be entrusted to it by the Central Government or as may be necessary to implement the provisions of this Act.

Responsibilities
of service
providers.

11. Service providers shall—

(a) ensure that their content or programmes uphold pluralism and diversity in the country;

(b) disclose information about individuals or entities with financial stakes in their operations, including investors, and disclose to the general public any potential conflict of interest while reporting or disseminating information on issues related thereto.

(c) abide by the Content Code specified in the clause (c) of section 10.

Annual Report.

12. The Board shall prepare every year, in such form and within such time as may be prescribed by the Central Government, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government, who in turn shall cause it to be laid before each House of Parliament.

13. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as the Central Government may think fit for carrying out the purposes of this Act.

Central Government to provide funds.

(2) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed and the accounts shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him.

(3) The accounts of the Board as certified by the Comptroller and Auditor- General of India or any person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

14. 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.

Act not in derogation of any other law.

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

Act to have an overriding effect.

16. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, make such order or give such direction, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing such difficulty.

Power to remove difficulties.

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

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

Power to make rules.

(2) Every rule and every 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

The freedom of the media is crucial for the functioning of a healthy democracy. The media should be independent and should play an impartial role in the dissemination of news and information to the public at large, so as to facilitate free and fair assessment of issues and independent decision making amongst the citizens, which is crucial to the healthy functioning of a democracy. The licensing powers being a monopoly in the hands of the Executive often results in a pliant media as Journalists will hesitate to criticize the ruling dispensation for fear of legal hazards. The licensing should not be left to the whims and fancies of the bureaucracy and the ruling party. The Bill aims to correct this by proposing an autonomous body for issuing licenses and revoking them, thus ensuring free and fair functioning of media.

Hence, this Bill.

V. SIVADASAN.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of the Indian Board for Media Services consisting of a chairperson and six other Members, whereas, clause 6 provides for the salary and allowances payable to them. Clause 8 of the Bill provides for the salary and allowances of the officers and staff appointed to the Board. Clause 13 of the Bill provides that the Central Government, shall after due appropriation made by Parliament by law in this behalf, grant such sums of money to the Board, as it may think fit for carrying out the purposes of this Act.

Therefore, the Bill, if enacted, would involve expenditure both of recurring and non-recurring nature from the Consolidated Fund of India. However, it is not possible at present to estimate the exact expenditure likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules and regulations for carrying out the purposes of the Bill. Clause 16 of the Bill empowers the Central Government to make an order or give such direction to remove any difficulty which might arise in giving effect to the provisions of the Act. As the rules, regulations, orders or directions will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. VIII OF 2024

A Bill to provide for protection from honour crime by establishing a National Commission for Protection from Honour Crime and prescribing punishments for honour crime and for matters connected therewith or incidental thereto.

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

CHAPTER I**PRELIMINARY**

1. (1) This Act may be called the National Commission for Protection from Honour Crime Act, 2024. 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 the context otherwise requires— Definitions.

(a) "aggrieved person" means any person against whom an honour crime is committed;

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

(c) "citizen" means any Indian citizen;

(d) "Commission" means the National Commission for Protection from Honour Crime, constituted under section 11 of the Act;

(e) "economic abuse" includes deprivation of all or any economic or financial resources to which the aggrieved person(s) is entitled under any law or custom whether payable under an order of a court or otherwise;

(f) "honour crime" means the crime defined under section 3 of the Act;

(g) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person(s) and includes assault, criminal intimidation and criminal force;

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

(i) "sexual abuse" means any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of a woman;

(j) "verbal and emotional abuse" includes—

(i) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(ii) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.

CHAPTER II

OFFENCE OF HONOUR CRIME AND PUNISHMENTS

Honour crime.

3. (1) Any person or several persons in furtherance of common intention, who indulges in or incites acts of violence against any person or persons, who has gone against or hurt the sentiments of religious, cultural or societal norms being followed by them, shall be guilty of the offence of honour crime.

(2) The acts of violence referred to in sub-section (1) may include the following:—

(a) doing any such act which causes death of the aggrieved person(s);

(b) attempting any such act which may cause death of the aggrieved person(s);

(c) abetting in any such act which may cause death of the aggrieved person(s);

(d) conspiring to do any such act which may cause death of the aggrieved person(s);

(e) destroying or causing to destroy evidence relating to honour crime;

(f) causing or attempting to cause disruption of any of the functions of the Commission.

Explanation: For the purposes of this section, "act" means,—

(a) harming or injuring or endangering the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person(s) or attempting to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harassing, harming, injuring or endangering the aggrieved person(s) with a view to coerce that person or any other person related to that person to meet any unlawful demand for any dowry or other property or valuable security; or

(c) such act that has the effect of threatening the aggrieved person(s) or any person related to him or her by any conduct mentioned in clause (a) or (b); or

(d) otherwise injuring or causing harm, whether physical or mental, to the aggrieved person(s).

(2) Honour crime shall be a non-bailable offence under any law for the time being in force and the burden of proof shall be on the accused.

4. Whoever commits an honour crime resulting in the death of a person or persons shall be punished with death or imprisonment for life and shall also be liable to fine .

Punishment for honour crime resulting in death.

5. Whoever does any act of honour crime with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine; and if hurt is caused to any person or persons by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

Punishment for attempt of honour crime resulting in death.

6. Whoever abets the commission of an honour crime resulting in death of the aggrieved person(s), shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for abetment of honour crime resulting in death.

7. Whoever is a party to a criminal conspiracy to commit an honour crime resulting in death of the aggrieved person(s) shall be punished with imprisonment for life or rigorous imprisonment for a term which may extend to two years or upwards.

Punishment for conspiracy to honour crime resulting in death.

8. Whoever secretes or destroys any document or electronic record, which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant, as such, or obliterates or renders illegible the whole or any part of such document or electronic record with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for destruction of evidence relating to honour crime.

9. Whoever voluntarily obstructs the Commission in the discharge of its functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Punishment for disruption of the functions of the Commission.

10. (1) Any person who is aware of an honour crime resulting in death or an attempt or conspiracy thereof should inform the Commission without expectation of payment or reward and without any duty of care or special relationship, voluntarily come forward to inform them about the same.

Duty of the citizens.

(2) If it is proved that one had knowledge of an honour crime being committed or attempt or conspiracy thereof and refused to share the same with the Commission or other concerned authorities, it would amount to abetment and shall be punishable accordingly under the provisions of this Act.

CHAPTER III

THE NATIONAL COMMISSION FOR PROTECTION FROM HONOUR CRIME

Constitution of the National Commission for Protection from Honour Crime.

11. (1) The Central Government shall, with effect from the appointed day, by notification in the official Gazette, constitute a body to be known as the National Commission for Protection from Honour Crime to exercise the powers conferred upon and to perform the functions as assigned to it, under this Act.

(2) The head office of the Commission shall be at New Delhi.

(3) The Commission shall have the power to regulate its own procedure.

Composition of the Commission.

12. The Commission shall consist of the following to be appointed by the Central Government, in such manner as may be prescribed:—

(a) a person of eminence who has done outstanding work for the eradication of honour crime - Chairperson;

(b) eight Members, having knowledge and experience in dealing with issues of such severity as of honour crime;

Provided that at least two of the Members shall be women.

Term of office and other conditions of service of the Chairperson and Members.

13. (1) The Chairperson and Members of the Commission shall hold office for a period of five years:

Provided that no Chairperson or any other member shall hold office after he or she has attained:

(a) in the case of the Chairperson, the age of sixty-five years; and

(b) in the case of a Member, sixty years.

(2) The salary and allowances payable to, and other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed by the Central Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or any Member, as the case may be, shall be varied to his or her disadvantage after his or her appointment.

Resignation and removal.

14. (1) The Chairperson or a Member may, by writing given under his or her hand to the Central Government, resign from his or her office at any time.

(2) Subject to the provisions of sub-section (3), the Chairperson may be removed from his office by an order of the Central Government on the ground of proved misbehaviour or incapacity.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Central Government may, by order, remove from office the Chairperson or any other Member, if the Chairperson or, as the case may be, such other Member, —

(a) is adjudged an insolvent; or

(b) engages during his or her term of office in any paid employment outside the duties of his or her office; or

(c) refuses to act or has become physically or mentally incapable of acting in his or her official capacity; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) has so abused his or her office as to render his or her continuance in office detrimental to the public interest; or

(f) is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude; or

(g) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission:

Provided that no person shall be removed from office under sub-sections (2) and (3), unless that person has been given a reasonable opportunity of being heard in the matter.

15. (1) If the Chairperson or, as the case may be, a Member,—

Vacancies

(a) is removed under sub-sections (2) and (3) of section 7; or

(b) tenders his or her resignation under sub-section (1) of section 7; his or her seat shall thereupon become vacant.

(2) If a vacancy occurs in the office of the Chairperson or a Member, whether by reason of his or her death, resignation or otherwise, such vacancy shall be filled within a period of ninety days by making a fresh appointment in accordance with the provisions of section 3 and the person so appointed shall hold office for the remainder of the term of office for which the Chairperson, or a Member, as the case may be, in whose place he or she is so appointed would have held that office.

16. (1) The Commission may appoint such number of officers and staff as it may consider necessary for the efficient discharge of its functions under this Act.

Officers and staff of the Commission.

(2) The mode of recruitment, the salary and allowances payable to, and other terms and conditions of service of the officers and staff of the Commission appointed under sub-section (1) shall be such as may be prescribed.

CHAPTER IV

POWERS AND FUNCTIONS OF THE COMMISSION

17. The Commission shall perform all or any of the following functions, namely:—

Powers and functions of the Commission.

(a) examine and review the safeguards provided by or under any law for the time being in force for the protection of citizens from honour crime and recommend measures for their effective implementation;

(b) present to the Central Government, annually and at such other intervals, as the Commission may deem fit, reports on the working of those safeguards;

(c) inquire into violation of human rights and recommend initiation of proceedings in such cases;

(d) examine all factors that inhibit the enjoyment of rights of citizens due to religious, cultural or societal norms and recommend appropriate remedial measures;

(e) study treaties and other international instruments and undertake periodical review of existing policies, programmes and other activities on honour crime and make recommendations for their effective implementation in the best interest of citizens;

(f) undertake and promote research in the field of abolition of honour crime;

(g) spread human rights literacy amongst various sections of the society and promote awareness of the safeguards available for protection of these rights through publications, media, seminars and other available means;

(h) inquire into complaints and take suo motu notice of matters relating to,—

(i) deprivation and violation of human rights relating to honour crime;

(ii) non-implementation of laws providing for protection from honour crime;

(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the victims of honour crime and to provide relief to such victims,

and take up the issues arising out of such matters with appropriate authorities; and

(i) such other functions, as it may consider necessary, for the promotion of rights against honour crime and any other matters incidental to the above functions.

Inquiry by the Commission.

18. The Commission may take any of the following steps upon the completion of an inquiry held under clause (c) of section 17 of this Act, namely:—

(i) where after inquiry, the Commission finds any violation of a serious nature of any of the provisions of this act or contravention of the provisions of any law for the time being in force, it may recommend to the appropriate Government or authority, the initiation of proceedings for prosecution or such other action, as it may deem fit, against the concerned person or persons;

(ii) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

(iii) recommend to the appropriate Government or authority for the grant of such interim relief to the victim or the members of his or her family as it may consider necessary.

Annual and Special Reports.

19. (1) The Commission shall prepare every year, in such form and within such time as may be prescribed by the Central Government an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government.

(2) The Commission shall also from time to time, prepare and submit to the Central Government, special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(3) The Central Government shall cause the annual and special reports of the Commission to be laid before each House of Parliament along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any, within a period of one year from the date of receipt of such report(s).

Central Government to provide funds.

20. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, make to the Commission grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(2) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed and the accounts shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him.

(3) The accounts of the Commission as certified by the Comptroller and Auditor- General of India or any person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Act not in derogation of any other law.

21. 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.

Act to have an overriding effect.

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

23. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, make such order or give such direction, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing such difficulty.

Power to
remove
difficulties.

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

Power to
make rules.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both 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

Young couples, particularly women, who go against the religious, cultural norms and/or societal norms being followed by a person or a group of persons are often subjected to various crimes like harassment, violence, sexual abuse and even murder, under the pretext of preserving honour. Recently, there has been a significant increase in the number of such crimes across the country. Such horrendous honour crimes need to be eradicated from the society. A clear message should be given to the perpetrators that they will be severely dealt with.

This Bill aims to achieve the said objective by creation of a mechanism, which will work efficiently to address this social malady and for this purpose it is proposed to declare honour crime as a non-bailable offence, prescribing punishments for various honour crimes and constitute a National Commission for Protection from Honour Crimes Board to look into such matters.

Hence this Bill.

V. SIVADASAN.

FINANCIAL MEMORANDUM

Clause 11 provides for the constitution of the National Commission for Protection from Honour Crime and appointment of a Chairperson and Members therein. Clause 13 provides for the salary and allowances payable to, and other terms and conditions of service of the Chairperson and Members of the Commission, whereas Clause 16 provides for the salary and allowances payable to and other terms and conditions of service of the officers and staff of the Commission. Clause 17 inter alia provides that the Commission shall undertake and promote research in the field of eradication of honour crime as well as spread human rights literacy and promote awareness of the safeguards available for protections of these rights amongst various sections of the society through all available means. Clause 20 of the Bill provides that the Central Government, shall after due appropriation made by Parliament by law in this behalf, grant such sums of money to the Commission, as it may think fit for carrying out the purposes of this 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 actual expenditure likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 24 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.

BILL NO. IX OF 2024

A Bill further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2024.

Short title and commencement.

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

2. In article 361 of the Constitution,—

Amendment of article 361.

(1) for clause 2, the following clause shall be substituted, namely:—

"(2) No criminal proceedings whatsoever shall be instituted or continued against the President in any court during his term of office."

(2) for clause 3, the following clause shall be substituted, namely:—

"(3) No process for the arrest or imprisonment of the President shall issue from any court during his term of office."

(3) for clause 4, the following clause shall be substituted, namely:—

"(4) No civil proceedings in which relief is claimed against the President, shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President, until the expiration of two months next after notice in writing has been delivered to the President, or left at his office stating the nature of the proceedings, the cause of action therefor, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims."

(4) after clause 4, the following new clause shall be inserted, namely:—

"(5) No criminal proceeding shall be instituted or continued against the Governor of a State, in any court during his term of office for any act done by him in the discharge of his public duty or functions."

STATEMENT OF OBJECTS AND REASONS

The Constitution of India states that the executive power of the State vests in the Governor. The Governor being a nominal head of the State is bound by the aid and advice of the Council of Ministers of the State. The Governor is appointed by the President of India, on the recommendations of the Union Cabinet. The Governor serves at the pleasure of the President. The Governor is therefore an unelected figurehead of the State Government.

Article 361 confers immunity from civil and criminal prosecution on the President and the Governor. The treatment of the Governor on par with the President of India is fallacious since the President of India is elected by an electoral college comprising elected representatives of the Houses of Parliament and the Legislatures of the States. Therefore, the President is a democratically elected head of the Union, whereas the Governor is a mere appointee. In fact, Article 157 only prescribes the most basic qualifications for appointment as Governor. Thus, equating the President and the Governor in matters of immunity is undesirable.

That apart, the Governor is bound by the aid and advice of the Council of Ministers of the State. The Chief Minister of the State does not enjoy complete immunity from prosecution. He can be prosecuted after obtaining sanction. Similarly, there should be a provision to prosecute the Governor for criminal offences after obtaining the sanction of the President, who appoints him. The Chief Minister of a State does not enjoy any immunity from civil proceedings. There is no reason why a Governor should get immunity from civil prosecution for civil wrongs or damages caused by him. Thus, it is undesirable to place the Governor at a better position than the democratically elected Chief Minister of the State, who enjoys the confidence of the Legislature of the State.

Allegations of corruption, sexual offences, inciting violence etc. have been made against some Governors. The idea that a person, howsoever high, be beyond the reach of Courts and the justice administration system is a colonial relic and cannot be part of a democracy administered by a written Constitution and the rule of law. If Governors misuse their office to provoke breach of peace or act against public interest, they must face the legal consequences.

The immunity under Article 361(1) to the Governor from answering to any court for the exercise and performance of his official duties is sufficient protection to ensure that a Governor does not answer cases filed against his official decisions personally. However, the immunity need not extend to criminal offences or civil wrongs committed by a Governor in his personal capacity. Absolute immunity to an unelected figure is antithetical to our constitutional morality and basic structure.

It is therefore, proposed to amend article 361 to achieve the above objectives.

Hence, this Bill.

P. WILSON.

BILL NO. XII OF 2024

A Bill further to amend the Constitution of India.

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

Short title and commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2024.

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

Amendment of article 15.

2. In article 15 of the Constitution, for clause 4, the following new clause shall be substituted:—

"(4) Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens proportionate to their caste census or for the Scheduled Castes and the Scheduled Tribes."

3. In article 16 of the Constitution, for clause 4, the following new clause shall be substituted:—

Amendment
of article 16.

"(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of State, is not adequately represented in the services under the State proportionate to their caste census."

STATEMENT OF OBJECTS AND REASONS

1. The Indian Constitution is the supreme law of this country which guarantees equality of status and opportunity. However, unequal cannot be treated equally and therefore the Indian Constitution allows for positive discrimination to foster equality. The origins of the reservation system may be traced back to India's old discriminatory caste system. With the object of making Indian society a democratic and egalitarian society, the framers of our Constitution framed the policy of reservation so that the oppressed and depressed classes can be joined in the mainstream. The reservations, therefore, were the exception to the general rule. Reservations in education and public employment are granted to elevate those regarded socially and educationally backward in the State's perspective or when a class of citizens is not properly represented in the services supplied by the State. Reservation is being offered to the SC/ST/OBC class of citizens in India, who have been disadvantaged and exploited socially and educationally for generations.

2. The Mandal Commission Report published in the year 1980 was the first to define reservations for Other Backward Classes of citizens in India. Before the Mandal Commission, caste discrimination existed on social, economic, and political levels. The living standards of the Scheduled Castes, Scheduled Tribes, and Backward Class families were deemed much poorer than the mainstream population, including Hindu forward castes and other religious groups. Therefore, the Mandal Commission recommended to grant 27% reservations to Other Backward Class citizens.

3. Over the years, there has been unrest amongst the citizens belonging to the socially and educationally backward classes for not being treated fairly and equally and that there is no level playing field when compared to the socially and educationally forward citizens. The concept of reservations introduced to uplift the socially and educationally backward classes of citizens for the injustice being done to them generation after generation did not achieve any greater results due to disparity in the quantum of reservations compared to their population. The fact remains that the reservation at 27% offered to the Other Backward Classes of citizens on the basis of the 1931 census over a period of time is not sufficient that too for a community, which is the largest in population in this country. The accumulation of the deficit in honoring their due representations and reservations for socially and educationally backward classes of citizens each year, again brings out inequality in the society.

4. Constitution being an organic document should stretch itself to take care of the demand and needs of the society. The founding fathers of our Constitution have designedly couched Articles 14, 15 and 16 in comprehensive phraseology so that the frail and emaciated section of the people living in poverty, rearing in obscurity, possessing no wealth or influence, having no education, much less higher education and suffering from social repression and oppression should not be denied of equality before law and equal protection of the laws and equal opportunity in the matters of public employment or subjected to any prohibition or discrimination on grounds of religion, race, caste, sex or place of birth. For achieving these objects, provisions were inserted under Articles 15 and 16 for providing reservations to the SC, ST and Socially and Educationally Backward Classes of citizens.

5. The Mandal Commission while determining the criteria for defining the socially and educationally backward classes of citizens identified that the Other Backward Classes (OBCs) constituted nearly 52% of the Indian population on the basis of the 1931 census. That after considering all facts and circumstances, the Commission initially recommended for reserving 52% of all posts under the Central Government and in educational institutions both under the Central and State Governments, for the backward classes of citizens. It was due to the legal constraint of 50% cap on all reservations that initially the quantum of Other Backward Class reservation was fixed at 27%, in order to arrive at a figure which when added to the 22.5% reservation for SCs and STs remains below 50%. The reservation of 27% in education

was introduced after the 93rd Constitutional amendment with effect from 20.1.2006. The eighteen years of implementation of reservation in education has not enabled the entire socially and educationally backward classes of citizens to realise the benefits of the reservation and disparity still prevails in the society and there is no achievement of level playing field. Moreover, the reservation in appointments introduced in the year 1981 also did not enable the Other Backward Classes of citizens to get their rightful share in employment and still there is inadequate representation in employment including in the promotional posts. Considering the fact that there exists no mathematical limit of 50% in aggregate for reservations, therefore it is essential that reservations for the backward classes of citizens be increased in proportion to the increase in their population over the years and shall be made proportionate to the Caste Census.

6. Therefore, to achieve substantive equality, it is imperative that Articles 15 and 16 of the Constitution should be amended to increase the quantum of reservations of Socially and Educationally Backward Classes of citizens proportionate to their Caste Census.

Hence, this Bill.

P. WILSON.

BILL NO. XIII OF 2024

A Bill to amend the National Food Security Act, 2013.

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

Short title and commencement.

1. (1) This Act may be called the National Food Security (Amendment) Act, 2024.

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

Amendment of section 4.

2. In the National Food Security Act, 2013 (hereinafter referred to as the principal Act), in section 4, in sub-section (a), after the words "nutritional standards", the words ", with specific focus on micronutrients required during pregnancy and lactation", shall be inserted. 20 of 2013.

- 3.** In the principal Act, in section 5, Amendment
of section 5.
- (a) in sub-section (1), after the words "nutritional standards", wherever they occur, the words ", with specific focus on required micronutrients", shall be inserted.
- (b) in sub-section (2), after the words "anganwadi shall", the words "ensure adequate stock of micronutrient-rich food supplement sand shall", shall be inserted.
- 4.** In the principal Act, in section 6, after the words "nutritional standards", the words", Amendment
of section 6.
with specific focus on required micronutrients", shall be inserted.
- 5.** In the principal Act, in section 22, after sub-section (4), the following new sub-section shall be inserted,— Amendment
of section 22.
- "(5) The Central Government shall ensure that the foodgrains provided to the State Governments shall meet the nutritional standards specified in Schedule II."
- 6.** In the principal Act, in section 24, in sub-section (2), after clause (b), the following new clause shall be inserted,— Amendment
of section 24.
- "(c) ensure adequate supply of micronutrient rich food and supplements to the anganwadis and schools for the Mid-Day Meal Scheme, so as to meet the nutritional standards specified in Schedule II."
- 7.** In the principal Act, in section 31, after the words "Schedule III", the words "and ensure the delivery of micronutrient-rich food and supplements, so as to meet the nutritional standards specified in Schedule II, to remote, hilly and tribal areas", shall be inserted. Amendment
of section 31.

STATEMENT OF OBJECTS AND REASONS

The fundamental right to life enshrined in Article 21 of the Constitution of India may be interpreted to include the right to live with human dignity, which includes the Right to Food and other basic necessities, and is therefore enforceable under Article 32. Thus, our Constitution guarantees to all the citizens of the country, the 'right to be free from hunger and malnourishment' and to have physical and economic access at all times to adequate food - in quality and quantity - that is nutritious, culturally acceptable and can be procured in a sustained and dignified manner.

2. The National Food Security Act, which was enacted on July 5, 2013, approached food security from the welfare to rights-based approach. The Act legally entitled up to 75 per cent. of the rural population and 50 per cent. of the urban population to receive subsidized food grains under the Targeted Public Distribution System. About two-thirds of the population, therefore, is covered under the Act to receive highly subsidized food grains.

3. However, priority on the scientific component of nutrition, which is required by the beneficiaries, has often taken a backseat in India. Instead, the inclination has been towards increasing the quantity of food rather than providing good quality food. This has resulted in a chronic state of micronutrient malnourishment in the country, which was aggravated by the COVID-19 pandemic; specifically for the most vulnerable segments of society like women, children and tribal communities residing in inaccessible regions.

4. The National Family Health Survey-5 suggests that the rate of anaemic children under the age of five has increased from 59 per cent. in the previous survey to 65 per cent. It was also observed that 34.7 per cent. of children under the age of 5 years are wasted (weight is too low for the height) and stunted. It also suggests that 52.2 per cent. pregnant women aged between 15 and 49 years are anaemic. The previous National Family Health Survey report of 2015-16, brought home the widely anticipated truth that, despite improvements, the under-nutrition amongst the Scheduled Tribes has remained much higher than that for all the groups taken together. As a matter of fact, malnutrition remains statistically a significant issue in all 36 States and Union Territories. These worrying indicators necessitate increased efforts to address the problem as soon as possible.

5. Instead of the calorie-centric strategy applied in the parent Act, the amendment advocates standardized framework for inclusion of micronutrients, which can be ensured through institutions like anganwadis and Mid-Day Meal Scheme. It is imperative that the goal of such policies should be to emphasize on providing adequate nutrition to its beneficiaries. Physical and mental wellbeing of these sections must be prioritized, and this is only possible if adequate and nutritious food which suits their nutritional needs is provided to them. This is because food security needs to be defined by nutrition outcomes rather than merely access to food. Such an amendment is the first step in addressing this deficit which will also be a step towards building a healthy and inclusive India for our future generations.

Hence, this Bill.

FAUZIA KHAN.

BILL NO. XVI OF 2024

A Bill further to amend the Protection of Children from Sexual Offences Act, 2012.

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

1. (1) This Bill may be called the Protection of Children from Sexual Offences (Amendment) Act, 2024.

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.

Amendment
of section 19.

2. In the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the principal Act), in section 19, for sub-section (6), the following shall be, substituted, namely:—

32 of 2012.

"(6) The Special Juvenile Police Unit or local police shall, without unnecessary delay but within a period of twenty-four hours, produce the child against whom an offence under sub-section (1) has either been committed or was likely to be committed, before the Child Welfare Committee and report the matter to the Special Court or where no Special Court has been designated, to the Court of Session, including need of the child for care and protection and steps taken in this regard:

Provided that on production of the child, the Child Welfare Committee shall conduct an inquiry from the child in the manner as prescribed under the Juvenile Justice (Care and Protection of Children) Act, 2015."

Amendment
of section 21.

3. In the principal Act, in section 21, for sub-section (2), the following shall be substituted, namely:—

2 of 2016.

"(2) Any person, being in-charge of any company or an institution (by whatever name called) who fails to report the commission of an offence under sub-section (1) of section 19 in respect of a subordinate under his control or an apprehension that such an offence is likely to be committed or the knowledge that such an offence has been committed, shall be punished with imprisonment for a term which may extend to one year and with fine."

Amendment
of section 25.

4. In the principal Act, in section 25, after sub-section (2), the following new sub-sections shall be inserted, namely:—

"(3) The statement recorded before the Child Welfare Committee shall be treated as a supplementary statement to the statement recorded before the Magistrate under sub-section (1).

(4) Where there is any deviation in the statement given before the Magistrate and the statement given before the Child Welfare Committee, the Special Court shall also take into consideration the statement given to the Child Welfare Committee."

Amendment
of section 33.

5. In the principal Act, in section 33, sub-section (8) shall be omitted.

Insertion of
new Chapter
VIII.

6. In the principal Act, after Chapter VIII, the following new Chapter shall be inserted, namely:—

"CHAPTER VIII

COMPENSATION AND FINANCIAL AID

Final
Compensation.

38A. Any victim under this Act shall be paid final compensation, as applicable.

Procedure for
final
compensation.

38B. (1) The Special Court may, on its own or on an application filed by or on behalf of the victim, recommend the award of final compensation, where the accused is convicted, or where the case ends in acquittal or discharge, or the accused is not traced or identified, and in the opinion of the Special Court the child has suffered loss or injury as a result of that offence:

Provided that the Special Court may, on its own or an application filed by or on behalf of the victim, pass an order for interim compensation to meet the needs of the child for relief or rehabilitation at any stage after registration of the First Information Report and in such cases, the interim compensation paid shall be adjusted against the final, compensation, if any.

(2) The Special Court may also make a recommendation for appropriate compensation, in case it is satisfied that the compensation awarded under this Act or any Act or Scheme, as may be applicable in the case, is not adequate for rehabilitation of the victim.

38C. (1) An application for payment of interim or final compensation, as the case may be, may be filed by or on behalf of the victim to the concerned District Legal Services Authority.

Role of the
District Legal
Services
Authority.

(2) In cases where the Special Court has made a recommendation, the concerned legal aid counsel or the victim or any person on behalf of the victim may file the application for payment of compensation to the concerned District Legal Services Authority.

(3) The District Legal Services Authority shall in accordance with the applicable scheme, decide the quantum of the compensation.

(4) In order to decide the quantum of compensation and/or any other financial aid that the victim may be in need of, the District Legal Services Authority shall conduct an inquiry and take such factors, as may be prescribed, into consideration for the purpose.

(5) In cases where the Special Court has made a recommendation for awarding compensation, the payment of compensation or any other financial aid, as the case may be, shall be made by the District Legal Services Authority within thirty days of such recommendation.

(6) In cases where an application is filed by or on behalf of the victim, the payment of compensation or any other financial aid, as the case may be, shall be made by the District Legal Services Authority within sixty days of receipt of such application.

(7) In case of rejection of the application under sub-section (1), the victim shall be informed of their entitlement to appeal against the order before State Legal Services Authority.

(8) The District Legal Services Authority shall, wherever deemed necessary, assign its empanelled counsels for representing the case for award of compensation before the Special Court.

(9) The empanelled counsels of the District Legal Services Authority shall be responsible for proactively taking up the applications filed before it for payment of compensation.

(10) In cases where the compensation amount is not disbursed due to shortage of funds, the assigned counsel of the District Legal Services Authority shall inform the concerned Special Court where the trial of the case of the victim is pending or has concluded in this regard.

(11) The District Legal Services Authority shall develop mechanisms and protocols, as deemed necessary, to ensure that the Child Care Institutions properly utilise the victim compensation, in the best interest of the minor victim.

38D. (1) Any application for payment of compensation received from the District Legal Services Authority shall be disposed of within a period of fifteen days of its receipt by the State Legal Services Authority.

Role of the
District Legal
Services
Authority.

(2) The State Legal Services Authority shall examine all factors related to the rehabilitation of the victim and then decide the payment of compensation and the quantum thereof.

(3) In case of shortage of funds, the State Legal Services Authority shall take all steps to ensure that compensation is being released to the victims in a timely manner.

(4) The State Legal Services Authority shall develop a mechanism to track and map the victim compensation applications with the outcomes of the applications.

(5) The State Legal Services Authority shall develop a digitized mechanism to track disbursement of funds for victim compensation through banks and ensure that bankers are crediting the compensation to the concerned accounts in a timely manner.

(6) In case of Bank Accounts of minor victims without parents or legal guardians, the State Legal Services Authority may communicate with the bankers to ensure that the victim compensation disbursed is being utilised in a timely fashion for immediate rehabilitative care of the minor victim.

(7) The State Legal Services Authority shall create a grievance redressal mechanism and forum to actively look into complaints filed by the victim or on behalf of the victim, regarding award of and/or non-receipt or late receipt of victim compensation."

Amendment
of section 43.

7. In the principal Act, in section 43, after clause (b), the following new clauses shall be inserted, namely:—

"(c) heads of educational institutions, teachers or any other person dealing with children in educational institutions shall be provided periodical training on the matters relating to the implementation of the provisions of the Act.

(d) sensitization and periodic training on the implementation of the provisions of the Act shall also be provided to the person in-charge, staff, and other personnel of Child Care Institutions."

STATEMENT OF OBJECTS AND REASONS

The objective of a law is fully achieved when it adapts with the changes required over the passage of time. This year marks twelve years of the Protection of Children from Sexual Offences (POCSO) Act, 2012, which became the first comprehensive law of the country against child sexual abuse. The examination of POSCO by Courts, child experts, children organizations, and other stakeholders have brought out a series of recommendations to be included in the Act to increase its relevance. Since then, POCSO Act, 2012 has undergone amendments in the year 2019 and the new POCSO Rules, 2020 have been implemented in 2020. However, there are many more important reforms that need to be included in the Act to keep pace with the recent amendments to child-related legislation and the evolving child rights policies. The ambiguities surrounding certain provisions in the Act need to be addressed through clear and concise provisions. While the Rules, 2020 cover many procedural aspects of dealing with the victim and their case, there need to be strict provisions provided under the Act for complete and effective implementation.

There are certain ambiguities surrounding the manner in which heads of educational institutions or teachers or any other personnel dealing with children in such institutions have to report the offence and deal with the complaint under the POCSO Act, 2012. In many cases, the Court has been of the view that the onus of late reporting or non-reporting cannot fall on the shoulders of the heads of educational institutions or teachers and that they need to be given training in matters relating to implementation of the various provisions of the Act so that they are equipped to verify the facts before they lodge a complaint under this Act.

Another important aspect of this law that poses serious ambiguity is about providing compensation to victims. A well-stated procedure is what is lacking in the existing legislation and the roles and responsibilities of the State and the authorities need to be clearly defined. There is a need for a well-established procedure to be entailed and followed by all levels of authorities so that the victims are able to get their right to compensation and access to compensation. The amendment brought out in this Bill provides for a clear procedure that helps in understanding the steps to award compensation as well as imposes a duty on the authorities to create mechanisms for tracking the process of awarding and payment of the compensation. This will help the victims in getting compensation in a timely manner and curb the existing delays in victim compensation delivery.

This Amendment Bill proposes changes to the law which are victim-centric and friendly. The amendments are an endeavor to overcome the existing ambiguities and help in making the implementation process more transparent and helpful for the victims as well as for the institutions working towards implementation of the provisions of this Act.

Hence, this Bill.

FAUZIA KHAN.

BILL No. XIV OF 2024

A Bill to amend certain enactments to prevent fraudulent calls in the country and for matters connected therewith or incidental thereto.

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

Short title and commencement.

1. (1) This Act may be called the Prevention of Fraudulent Calls Act, 2024.

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

AMENDMENT OF THE TELECOM REGULATORY AUTHORITY OF INDIA ACT, 1997

Insertion of new section 11A.

Measures to curb fraudulent calls.

2. In the Telecom Regulatory Authority of India Act, 1997 (hereinafter referred to as the TRAI Act), after section 11, the following new section shall be inserted, namely:—

"11A. (1) The Authority shall, in consultation with relevant stakeholders and service providers, prescribe necessary regulations and guidelines to prevent and curb fraudulent calls.

(2) The regulations shall include, but not be limited to, :—

(a) mechanisms for identifying and blocking fraudulent numbers;

(b) establishment of a robust system for the registration and verification of telemarketers; and

(c) procedures for law enforcement agencies for effective investigation and prosecution of person(s) or entities involved in fraudulent call cases under the law for the time being in force; and

(d) promotion of public awareness campaigns on recognizing and reporting fraudulent calls.

(3) The Authority shall regularly review and update the regulations to adapt to evolving fraudulent call techniques and technologies.

Explanation.—for the purposes of this section, "fraudulent calls" means any form of unsolicited communication, like messages, calls, or electronic communication, including but not limited to voice calls, text messages, WhatsApp messages, e-mails, data stream, automated calls and videos, with the intent to defraud, deceive, or mislead the recipient."

3. In the TRAI Act, after section 25, the following new section shall be inserted, namely:—

"25A. The Central Government shall,—

(a) in consultation with the Authority and in consideration of the relevant provisions of the Consumer Protection Act, 2019, establish a robust mechanism for the public to report fraudulent calls defined under section 11 A and activities related thereto:

Provided that such mechanism shall provide adequate protection to whistleblowers reporting fraudulent call activities; and

(b) in collaboration with the Authority and other relevant stakeholders, conduct public awareness campaigns to educate citizens on recognizing and reporting fraudulent calls and activities related thereto."

4. In the TRAI Act, in section 36, in sub-section (2), after clause (f), the following sub-section shall be inserted, namely:—

"(g) matters in respect of sub-section (2) of section 11A."

AMENDMENT OF THE INFORMATION TECHNOLOGY ACT, 2000

5. In the Information Technology Act, 2000, after section 66A, the following new section shall be inserted, namely:—

"66AA. (1) Any person found guilty of engaging in fraudulent calls or activities related thereto, as defined under Section 11A of the Telecom Regulatory Authority of India Act, 1997, shall be liable for punishment as prescribed under section 351 of the Bharatiya Nyaya Sanhita, 2023.

(2) In addition to the above, the court may order the forfeiture of equipment and assets used in the commission of the offence."

AMENDMENT OF THE BHARATIYA NYAYA SANHITA, 2023

6. In the Bharatiya Nyaya Sanhita, 2023, in section 351, after sub-section (4), the following new sub-section shall be inserted, namely:—

"(5) Whoever, with intent to cause harm, harassment, or monetary loss, engages in fraudulent calls, as defined under section 11A of the Telecom Regulatory Authority of India Act, 1997, shall be punished with imprisonment for a term not exceeding three years or with fine not exceeding five lakh rupees or both."

Insertion of new section 25A.

Duties of the Central Government.

Amendment of section 36.

Insertion of new section 66AA.

Punishment for fraudulent calls and related activities.

Amendment of section 351.

35 of 2019.

21 of 2000.

24 of 1997.
45 of 2023.

45 of 2023.

24 of 1997.

STATEMENT OF OBJECTS AND REASONS

The rise of AI-generated fake/fraudulent voice calls in India, as evidenced by the McAfee report titled 'The Artificial Imposter,' is a pressing concern demanding legislative attention. The survey's findings, encompassing 7,054 participants from seven countries, reveal a startling truth that over 83 per cent. of Indians have fallen victim to these fraudulent calls. Disturbingly, half of the respondents admitted their inability to differentiate between authentic and AI-generated fake voice calls, resulting in substantial financial losses.

The surge in online scams, particularly the fake voice call scam, underscores the need for swift legislative action. Cybercriminals exploit advanced technology to create deceptive calls, with 48 per cent. of affected individuals reporting losses exceeding ₹50,000. The vulnerability of Indian adults to voice scams, reflected in the survey's 69 per cent. uncertainty in identifying cloned voices, necessitates urgent legal measures.

Therefore, the proposed legislation aims to protect citizens by introducing stringent measures against fake/malicious/fraudulent voice calls. It proposes to amend the Telecom Regulatory Authority of India Act, 1997, the Information Technology Act, 2000 and the Bharatiya Nyaya Sanhita, 2023 in order to safeguard citizens from the escalating threat, malice, financial exploitation caused by fraudulent voice calls. It also emphasizes public awareness about the prevalence of such voice scams, the importance of caller verification, and collaboration with service providers for effective implementation. Severe penalties are proposed to deter fraudulent communication and fortify the legal apparatus against evolving cyber threats.

The Bill seeks to achieve the above objectives.

FAUZIA KHAN.

BILL NO. VI OF 2024

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

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

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2024. Short title and commencement.

(2) It shall come into force at once.

43 of 1951.

2. In section 86 of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in sub-section (7), for the words "endeavour shall be made to conclude the trial within six months", the words "shall be concluded within six months", shall be substituted. Amendment of section 86.

3. In Section 116A of the principal Act, after sub-section (2), the following new sub-section shall be inserted, namely: Amendment of section 116A.

"(3) Every appeal preferred under sub-section (2) shall be disposed of within six months from the date of its filing and the proceedings shall be conducted on day-to-day basis." Amendment of section 116A.

STATEMENT OF OBJECTS AND REASONS

Elections are perennial phenomena in our country; be it the General Elections to the Lok Sabha and Legislative Assemblies, elections to the Rajya Sabha and Legislative Councils or Bye-elections. As is the case everywhere, elections are fervently contested in our country and there are a lot of stakes involved in all these elections.

2. The Election Commission has been vested with the task of conducting the elections. As per the provisions of the Representation of the People Act, 1951 (RP Act, 1951), all the candidates/ parties have to adhere to the norms fixed for contesting these elections. At times, when these norms are violated, the aggrieved party is free to approach the High Court, which has been given the original jurisdiction in this regard, for deciding election disputes.

3. The grounds on which the election of a candidate can be challenged are outlined in the RP Act, 1951. Although Section 86 of the RP Act, 1951 provides that all endeavours shall be made by the High Court to conclude the trial within 6 months, in practice, it has been observed that, the decision on election petitions are pronounced when the term of the elected person is about to expire or has already expired. After announcement of the decision of the High Court, the aggrieved party is entitled to approach the Supreme Court under Section 116 A of the RP Act, 1951. In that section, there is no time limit being prescribed within which the appeal has to be disposed of.

4. In 2015, in the case of Mohd. Akbar Vs. Ashok Sahu and Others, the Supreme Court had expressed its concern over the delay in the disposal of election petitions. The Court had observed that very rarely, the election disputes are resolved during the tenure of the winning candidate, thereby reducing the adjudicating process into a mockery of justice. The Court had suggested that each High Court should have a dedicated bench for deciding election petitions. Recently, in 2023, in the case of Rajendra Kumar Vs. Kuwar Bhartendra Singh, the Allahabad High Court has observed that often the delay is such that the election petition becomes infructuous, or if it survives, it would only be for academic purposes. The Court has further observed that the High Courts have to be more careful and have to endeavour to decide election petition at the earliest, so that it may not render it infructuous due to efflux of time.

5. Even after all these, the situation in most of the election petitions is the same and it takes considerable time to decide the petitions. It is high time that a period be fixed for both High Courts as well as the Supreme Court within which they should dispose of election petitions and appeals thereon respectively.

6. The Bill seeks to stipulate a maximum period of six (6) months from the date of filing of the election petition or appeal, as the case may be, for both the courts to decide on and dispose them of.

Hence, this Bill.

A.D. SINGH

P.C. MODY,
Secretary-General.