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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 7th February, 2025:—

I

Bill No. LXIX of 2023

A Bill to protect the rights of employees in relation to the use and implementation of artificial intelligence in workplaces and regulate the use of and ensure transparency in the implementation of artificial intelligence technologies at workplaces and for matters connected therewith or 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 Artificial Intelligence (Protection of Rights of Employees) 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. In this Act, unless the context otherwise requires,— Definitions.

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

(b) "AI Algorithm" means a set of computational instructions or rules that enable machines to learn and analyze data and make decisions based on that knowledge to autonomously perform tasks, typically requiring human intelligence such as recognizing patterns, understanding natural languages, problem solving and decision-making;

(c) "AI implementation" means utilising and integrating artificial intelligence technologies in tasks and work processes within the workplace;

(d) "Artificial Intelligence (AI)" means the simulation of human intelligence processes by machines, especially computer systems, which are designed to operate with varying levels of autonomy, and which can, for explicit or implicit objectives, generate outputs such as predictions, recommendations, or decisions influencing real or virtual environments;

(e) "Data Privacy" means safeguarding sensitive and personal information and ensuring that individuals have control over and can make their own decisions about the collection, use, and storage of their personal data and the authority who can process such data and the purpose therefor, and includes implementing measures to prevent unauthorized access or misuse of sensitive and personal data;

(f) "employee" means any person, who is employed or engaged for wages or remuneration, in any kind of work, manual or otherwise, in connection with the work of an organization, entity, establishment or agency, either in the government or private sector;

(g) "Employer" means any office, organization, entity, establishment or agency, either in the government or private sector ;

(h) "Equality Impact Assessment" means a holistic evaluation aimed at understanding the extent to which the introduction or utilization of AI technologies, including AI algorithms, in a workplace adversely affects or has the potential to adversely affect individuals or groups based on factors such as race, gender, ethnicity, or other protected characteristics;

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

(j) "workplace" includes the premises and physical and technological infrastructure of any office, organization, entity, establishment or agency, either in the government or private sector, where and through which an employee performs tasks or jobs related thereto.

Duties of appropriate Government in AI Implementation.

3. It shall be the duty of the appropriate Government to take all necessary measures to ensure that AI implementation by any employer adheres to the following, in such form and manner as may be prescribed –

(a) ensure transparency in AI implementation within the workplace by furnishing comprehensive documentation elucidating the purpose, requirement, functionality, and ramifications thereof on employees, their jobs and other relevant stakeholders;

(b) mitigation of biases in AI algorithms that may adversely affect employees' rights or opportunities by regular conduct of performance audits and impact assessment, as specified in section 5, and the application of bias-mitigation techniques;

(c) upholding employees' right to refuse tasks or decisions solely based on AI generated processes if they feel it violates their rights or ethical standards and the right to review high-risk decisions made by AI processes, affording them the opportunity to challenge choices or decisions adversely impacting their employment;

(d) providing adequate training and up-skilling opportunities for employees affected by AI implementation to ensure they can effectively adapt and engage with the technology; and

(e) protection of employees' rights during AI implementation, including data privacy, and confidential handling of personal information, in compliance with the provisions of the Digital Personal Data Protection Act, 2023 and other such related laws and regulations for the time being in force.

4. The appropriate Government shall ensure that -

Appropriate Government to take measures in obtaining consent .

(a) employers must obtain explicit and informed consent, in writing in such form and manner as may be prescribed, from employees before AI implementation within the workplace which directly affect their work or rights adversely, and

(b) in cases, where deemed consent is used, employers must provide clear information and avenues to the employees to either opt-out or seek modification of their consent.

5. **The appropriate Government shall design and conduct an equality impact assessment, of any employers' AI implementation process within the workplace, to ensure fairness, non-discrimination, and compliance with established rules and regulations, at five-year intervals, in such manner as may be prescribed:**

Equality Impact Assessment.

Provided that the first equality impact assessment shall be conducted immediately after five years of implementation of the Act.

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

Central Government to provide funds.

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

Powers to make rules.

(2) Every rule and regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately

following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both the 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; however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

(3) Every rule and 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 State Legislature consists of one House, before that House.

STATEMENT OF OBJECTS AND REASONS

The impact of artificial intelligence (AI) on the workforce has been a topic of concern for many years. A recent survey conducted by Randstad, which was shared exclusively with ET, revealed that Indian employees are more concerned about losing their jobs to AI than their counterparts in the US, UK, and Germany. Similarly, a Microsoft report found that 74% of Indian employees are worried about losing their jobs to AI. As AI becomes increasingly integrated into the workplace, laws must adapt to protect workers' rights. As workplaces evolve, employees are facing new challenges in maintaining their autonomy and privacy. The lines between work and home life have become increasingly blurred, and the amount of data collected from workers has grown substantially with little transparency as to how it is being used. Clear guidelines are needed to address issues such as remote work, impact assessments, and accountability for AI-driven decisions.

2. One of the main issues with AI is the potential for perpetuating biases in the data on which the system is trained, resulting in discrimination in hiring, promotions, and overall performance evaluations. This issue has led to a need for laws that address algorithmic bias to ensure fair and equitable treatment of employees. However, the disproportionate representation within training data is a significant concern, which results in AI systems incapable of making unbiased decisions. In one of the most high-profile cases, one conglomerate had to discontinue an AI tool designed to screen job candidates' resumes. The tool had learned and replicated the disproportionate hiring trends in male-dominated industries, resulting in it downgrading applications from women.

3. Furthermore, the intricate nature of AI algorithms complicates the identification of biases within the data, creating challenges in comprehending their impact on decision-making processes. An industry report found that while there is a growing reliance on AI in business operations, there is also a parallel rise in apprehensions regarding data bias. Despite acknowledging data bias, many organisations are in the nascent stages of addressing it. Steps taken to combat bias include education, transparency, and training. Yet, there remains a consensus among industry respondents that more needs to be done to understand and mitigate data bias effectively.

4. To address these issues, governments must act to spur innovation in trustworthy AI. They must also foster accessible AI ecosystems with digital infrastructure technologies and mechanisms to share data and knowledge. Finally, people must be equipped with the skills for AI, and workers must be supported to ensure a fair transition.

5. The Bill seeks to lay down comprehensive guidelines to combat data bias in AI implementation within workplaces, including the need for transparency in algorithms, mandatory training, and the adoption of practices to detect and rectify biases within datasets. Addressing data bias will not only enhance the ethical and equitable use of AI but will also protect against potential risks stemming from biased algorithms, such as adverse business decisions and legal repercussions.

6. In conclusion, the impact of AI on the workforce cannot be ignored. As AI becomes integral to various decision making processes within organisations, this Act serves as a critical step toward ensuring fair and unbiased practices in workplaces. It emphasises the critical need for a more inclusive and comprehensive approach to AI development, requiring diverse participation and technical training to manage datasets and algorithms without bias, thereby ensuring an equitable and ethical AI-driven future in the workplace.

Hence, the Bill.

MAUSAM B NOOR

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides that the appropriate Government shall design and conduct an Equality Impact Assessment of the AI implementation process within the workplace of any employer at five-year intervals from the enactment of this Act. Clause 7 provides for financial assistance to the State Governments for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve expenditure both of recurring and non-recurring nature. However, at this stage, it is not possible to estimate the actual expenditure likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the appropriate Government to make rules and regulations for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of normal character.

II

Bill No.LXX of 2023

A Bill to prevent and criminalize the creation, dissemination, and use of deepfake content without consent or without digital watermark and for matters connected therewith or 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 Deepfake Prevention and Criminalisation 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. In this Act, unless the context otherwise requires,— Definitions.

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

(b) "consent" means voluntary and willful agreement, either in writing or orally, by a person in a sound state of body and mind and of legal age, without any coercion, fraud or error and not obtained under any duress or fear

(c) "Deepfake" means digitally manipulated or fabricated digital content, including but not limited to images, videos or audio recordings, created through the use of advanced digital technologies such as artificial intelligence, machine learning, or other advanced technologies, with the intent to convincingly and deceptively depict subjects or issues or represent individuals engaging in actions, making statements, or being in circumstances that did not occur or exist in reality;

(d) "Digital Content Forgery" means the act of utilization of technologies, such as artificial intelligence and machine learning methodologies, to create or alter audio, visual, or textual contentwith the purpose of deceiving;

(e) "Digital Watermark" means a unique digital signal or code embedded within a digital multimedia file, such as an image, audio, or video file, serving as metadata for the purpose of establishing origin, ownership, or content authentication, and thereby preventing unauthorized use or manipulation;

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

(g) "Social Media Intermediaries " means digital platforms which primarily or solely enables online interaction between two or more users and allows them to create, upload, share, disseminate, modify or access digital content using its services within a virtual community; and

(h) "Task Force" means the National Deepfake Mitigation and Digital Authenticity Task Force, established under Section 4 of the Act.

Recognition of creation and sharing of deepfake(s) as a criminal offence

3. Any person, who creates, distributes, disseminates or shares deepfake(s) without the consent of the individual(s) involved or without digital watermark, as defined under the Act,—

(a) with the intent to humiliate or otherwise harass the person falsely exhibited, provided that the advanced technological false personation record contains sexual content of a visual nature and appears to feature such person engaging in such sexual acts or in a state of nudity;

(b) with the intent to cause violence or physical harm, incite armed or diplomatic conflict, or interfere in an official proceeding, including elections, provided that the advanced technological false personation record poses a credible threat of instigating or advancing such actions; and

(c) in the course of criminal conduct related to fraud, false personation, or identity theft,

shall be guilty of a criminal offence.

Establishment of National Deepfake Mitigation and Digital Authenticity Task Force.

4. ***(1)*** **The Central Government shall, within six months from the date of commencement of this Act, establish by notification in the official Gazette, a National Deepfake Mitigation and Digital Authenticity Task Force.**

(2) **The task force shall be comprised of a Chairperson and such other 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, shall be such as may be prescribed.**

Functions of the Task Force

5. ***(1)*** **The Task Force shall have the following functions, but not limited to:—**

(a) evaluate the prevalence of deepfake(s) affecting the citizens, businesses in India and the functioning of the Central and State Government;;

(b) evaluate the risks, encompassing privacy concerns, linked to the utilization of digital content forgery and deepfake(s) within India;

(c) evaluate the influence of digital content forgery and deepfake(s) on civic participation, including the electorate;

(d) determine and recommend the extent of penalties to be imposed on offences under the Act on a case--to-case basis;

(e) evaluate the possibility of incorporating a visual protection feature, similar to streaming apps, where individuals who do not provide consent for screenshots or sharing have their content displayed as a black screen;

(f) recommend the regulatory guidelines to be followed by social media intermediaries to enforce and uphold the privacy preferences of users and ensure the implementation of consent and visual protection measures; and

(g) evaluate the feasibility of incorporation of blockchain technology to monitor and verify the authenticity of digital content circulated in public domain to ensure a secure and tamper-proof validation process.

(2) **The Task Force shall submit a report containing their findings and recommendations, on a quarterly basis, to the appropriate Government, for consideration and implementation, as deemed necessary.**

Dislcosure.

6. Any person or entity who, using any means or facility of interstate or foreign commerce, generates a technologically advanced deceptive impersonation record of audio, visual or audio-visual nature, with the intention of disseminating it over the internet or knowledge that such record shall be so distributed, shall ensure that,

(a) such record adheres to the requirement of digital watermark as defined under section 2(d); and

(b) prior consent from the rights holder for hosting, or sharing of such record is obtained.

Penalty.

7. Whoever commits an offence under this Act shall be punished with imprisonment for a term which may extend to five years or fine, as recommended by the Task Force on a case-to basis and accepted by the appropriate Government, or both.

Central Government to provide funds.

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

Power to make rules.

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

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

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

Act to have overriding effect.

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

STATEMENT OF OBJECTS AND REASONS

Recently, in various elections and assembly polls, there have been instances where advanced technology has been employed to manipulate videos for political purposes. For instance, a notable occurrence involved a video which surfaced during a State Assembly Poll, where a political figure was shown as criticizing his political opponent. The interesting fact about the video was that it was a result of morphing an older video of him with another footage in which he was speaking about a completely different issue. This incident marked one of the earliest known uses of deepfake technology in India during election campaigning.

2. The adage "seeing is believing" is old, but with the advent of deepfakes, it no longer holds true. These fabricated videos pose a significant threat to individual privacy and society as a whole. They are inexpensive to produce and, when misused, can potentially influence voters, manipulate the masses into communal unrest, and infringe upon the privacy, among other issues.

3. As deepfakes continue to evolve, legal systems across the globe are struggling to keep up with this rapidly developing technology. In the US, the Deepfakes Accountability Act passed in 2019 requires deepfakes to be watermarked for identification purposes. However, no legislation currently exists to address the specific potential threats of deepfake technology within India. While sections 67 and 67A of The Information Technology Act 2000 ("IT Act") provide punishment for publishing sexually explicit material in electronic form, and Section 500 of the Indian Penal Code 1860 provides punishment for defamation, these provisions are inadequate for addressing the diverse manifestations of deepfakes.

4. The misuse of sexual deepfakes or Synthetic Sexually Explicit Material extends beyond mere self-gratification, encompassing nefarious applications such as harassment and blackmail against victims ofsuch abuse. This concern is particularly heightened in India, where the legal framework surrounding pornography remains ambiguous, contributing to the underreported and unresolved nature of critical issues like revenge porn. Existing legal provisions are inadequate in addressing offenses of this magnitude, leaving victims in a state of vulnerability due to the absence of specific legislation pertaining to manipulated media content in the Country.

5. In response to these challenges, the Revenge Porn Helpline, an organization based in the United Kingdom, published a comprehensive 2020 report titled 'Intimate Image Abuse: An Evolving Landscape.' This report delves into the utilization of advanced technology for image abuse, elucidating its ramifications and the gravity of the associated harm. In the Indian context, the Revenge Porn Helpline collaborates with Parihar, an initiative of the

Bengaluru City Police focused on women and child welfare, to offer services and assistance to victims affected by revenge porn and deepfakes. Regrettably, the available data on the number of individuals seeking assistance from Parihar and the mechanisms employed to aid victims in such cases remains limited.

6. Governmental and regulatory bodies must proactively ensure the integrity of videos disseminated in public domain. In circumstances where the origin of a video cannot be controlled, it is proposed that the government establish an entity equipped to monitor deepfakes through the application of blockchain technology. Blockchains, leveraging a decentralized network, store data in blocks, allowing anyone to verify information authenticity by matching it with a unique non-invertible key. Even the slightest data manipulation would result in a discernible mismatch, fortifying the robustness of the verification process. Therefore, along with spreading awareness about this novel technology amongst the masses, adequate attention should be given by the Government towards the challenges posed by deepfakes, before they become a menace in India.

Hence, this Bill.

MAUSAM B NOOR

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for establishment of a National Deepfake Mitigation and Digital Authenticity Task Force, whereas, Clause 7 provides for financial assistance to the State Governments for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve expenditure both of recurring and non-recurring nature. However, at this stage it is not possible to quantify the recurring and non-recurring expenditure likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of normal character.

III

Bill No. LXXIX 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 368 of the Constitution, clauses 4 and 5 shall be omitted. Amendment of article 368.

STATEMENT OF OBJECTS AND REASONS

Clauses *(4)* and *(5)* were inserted into article 368 of the Constitution by the Constitution (Forty-Second Amendment) Act, 1976 to provide that any amendment that is carried out in the Constitution shall not be called into question before any court on any ground and that the Parliament has no limitation on its powers to amend the Constitution. In effect, the Parliament got absolute power to amend the Constitution in any way it deemed fit. This amendment was in direct contravention to the landmark judgement of Kesavananda Bharati delivered by the Supreme Court of India in the year 1973 that held that there was an implied limitation on the power of the Parliament to amend the Constitution of India.

Clauses *(4)* and *(5)* of article 368 were eventually declared to be unconstitutional by the Supreme Court of India in the year 1980 by the landmark judgment in the case of Minerva Mills. However, these provisions have continued to remain in the Constitution for more than four decades after being declared as unconstitutional. These provisions do not reflect the law of the land, and are in contravention to the spirit of the Rule of Law.

It is important for the Constitution of India to be reflective of the actual law of the land and to recognise that the Parliament is bound by the provisions of the Constitution and is not above it.

The Bill seeks to achieve the above-said objectives.

MAUSAM B NOOR

IV

Bill No. XXXVII of 2024

A Bill to provide for regularization of the services of ASHA workers by giving them the status of a permanent employee of the Government 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 commencemen.

1. *(1)* This Act may be called the ASHA Workers (Regularization of Service and Other Benefits) Act, 2024.

(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) "ASHA worker" means Accredited Social Health Activist working as community health worker deployed as a part of the National Health Mission of the Government of India;

(b) "Committee" means the Committee for Welfare of ASHA workers constituted under section 5 of this Act; and
(c) "prescribed" means prescribed by rules made under this Act.

Regularization of services of ASHA workers.

3. ***(1)*** **The Central Government shall, by notification in the Official Gazette, take all such steps as may be necessary to regularize the services of ASHA workers and confer the status of not less than that of Group 'C' employees of the Central Government on all such ASHA workers who are serving in the National Health Mission immediately before the commencement of this Act.**

(2) **Every ASHA worker, whose service has been regularized, shall be entitled to such tenure, terms and conditions of service including remuneration, leave, provident fund, retirement and other terminal benefits as are available to Group "C" or above employees of the Central Government, as the case may be.**

(*3*) Every ASHA worker deployed after the commencement of this Act shall be conferred the status of not less than that of a Group 'C' employee of the Central Government and shall be entitled to all other benefits as mentioned in sub-section (*2*).

Accommodation to ASHA workers.

4. **The Central Government shall take steps to provide residential accommodation to all the ASHA workers within the vicinity of their workplace, in such manner as may be prescribed.**

Committee for welfare of ASHA Workers

5. ***(1)*** **The Central Government shall, by notification in the Official Gazette, establish a Committee to be known as the Committee for Welfare of ASHA workers for the purpose of socio-economic development of ASHA workers and to advise the Central Government on such matters arising out of the administration of this Act.**

(2) **The Committee shall consist of,-**

(i) **a Chairperson;**

(ii) **a Vice-Chairperson; and**

(iii) **three Members;**

to be appointed by the Central Government.

(3) **The Central Government shall appoint such number of officers and staff, as it may deem fit, to assist the Committee in carrying out the duties assigned to it under this Act.**

(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, Vice-Chairperson, Members and officers and staff of the Committee, shall be such as may be prescribed.**

(5) The Committee shall have the power to regulate its own procedure.

Duties of the Committee

6. It shall be the duty of the Committee to—

(a) investigate and monitor all matters relating to the safeguards provided for ASHA workers under any law in force at the time of the commencement of this Act, or under any other law for the time being in force or under any order of the Central or State Government and to evaluate the working of such safeguards and to present to the Central

Government, annually and at such other intervals, as the Commission may deem fit, reports on the working of those safeguards;

(b) inquire into specific complaints with respect to the deprivation of rights and safeguards of the ASHA workers as received by it, in such manner as may be prescribed;

(c) advise the Central Government on the socio-economic development of the ASHA workers and to evaluate the progress of their development;

(d) bring about synergy between technology and public policy and recommend measures for enhancing the income and employment potential of ASHA workers through training and reforms in the health sector; and

(e) discharge such other functions, as it may consider necessary, in relation to the protection, welfare, development and advancement of ASHA workers and any other matters incidental to the above-said duties.

Committee to have powers of Civil Court

7. The Committee shall, while investigating any matter referred to it in under clause *(b)* of section 6, have all the powers of a Civil Court trying a suit and, in particular in respect of the following matters, namely,–

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commission for the examination of witnesses and documents; and

(f) any other matter which may be prescribe.

Annual Reports.

8. *(1)* The Committee 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 Central Government shall cause the annual report of the Committee 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 Committee 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 adequate funds to the Committee.

9. The Central Government shall, after due appropriation made by Parliament by law on this behalf, grant such sums of money to the Committee, as it may think fit, for carrying out the purposes of this Act.

Act not in derogation of any other law.

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

Power to remove difficulties.

11. 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 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 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

ASHA workers, the Accredited Social Health Activists, are working under the Ministry of Health and Family Welfare as part of the National Health Mission contributing remarkable service in the health sector. The ASHA workers work as a link between the Department of Health & Family Welfare and the common man to create awareness and promote health activities in the country. The contributions of ASHA workers help to improve the health standards of the country. They are promoters of various schemes of the Central Government and State Governments and ensuring the health of the common man. However, they do not have job security and the honorarium given to them is not sufficient to sustain their living expenses. This may, in the long term, adversely affect the effective implementation of various health programmes of the Government including the Integrated Child Development Scheme. Therefore, considering the importance of their duties and service, it is imperative to take necessary steps for their upliftment.

The Bill provides for regularization of the services of ASHA workers by giving them the status of a permanent employee of the Government. It also proposes to establish a Committee for Welfare of ASHA workers for the purpose of socio-economic development of ASHA workers.

Hence this Bill.

ASHOK KUMAR MITTAL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for regularization of the services of ASHA workers and confers the status of not less than that of Group 'C' employees of the Central Government on all such workers. It also provides for such tenure, terms and conditions of service including remuneration, leave, provident fund, retirement and other terminal benefits to the ASHA workers, as are available to Group 'C' employees of the Central Government. Clause 4 of the Bill stipulates that the Central Government shall take steps to provide housing facilities to all ASHA workers and helpers within the vicinity of their workplace. Clause 5 provides for the constitution of the Committee for Welfare of ASHA workers for the purpose of socio-economic development of ASHA workers; appointment of a Chairperson, Vice-Chairperson and Members therein; appointment of such number of officers and staff as are required to assist the Committee and the salary and allowances payable to, and other terms and conditions of their service. Clause 9 provides that the Central Government, shall after due appropriation made by Parliament by law in this behalf, grant such sums of money to the Committee, as it may think fit for carrying out the purposes of this Bill.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. A recurring expenditure of about rupees three hundred crore is likely to be involved per annum from the Consolidated Fund of India.

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

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make provisions through an order or direction to remove any difficulties likely to arise in giving effect to the provisions of the Bill, if enacted. Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. As the orders and rules will relate to matters of detail only, the delegation of legislative powers is of a normal character

V

Bill No. LXXXII 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 the Official Gazette, appoint.

Insertion of new article 21B.

2. In Part III of the Constitution, after article 21A, the following new article shall be inserted, namely:—

Right to affordable healthcare and sanitation.

"**21B.** *(1)* The State shall provide accessible and affordable healthcare facilities along with sanitation to all its citizens in such manner as the

State may by law, determine.

(2) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, descent, place of residence or any of them while providing the right to affordable and accessible healthcare and sanitation.

(3) The State shall spend not less than five percent of the annual estimated receipts of the State over a period of five years for achieving the right to affordable and accessible healthcare and sanitation as provided under clause (1)."

Amendment of the Seventh Schedule.

3. In the Seventh Schedule to the Constitution:,—

(a) in List II-State List, entry 6 shall be omitted; and

(b) in List III-Concurrent List, after entry 47, the following new entry shall be inserted, namely:—

"47A. Public health, Affordable Healthcare and sanitation; hospitals and dispensaries."

STATEMENT OF OBJECTS AND REASONS

Healthcare is a fundamental right that is critical to ensuring a prosperous and equitable society. Accessible and affordable healthcare is not only essential to individual well-being but also crucial for economic growth, social stability, and human development. Recognizing the importance of healthcare as a public good, this amendment Bill seeks to incorporate a new Article 21B, into the Constitution, making it a binding duty for the State to ensure affordable and accessible healthcare facilities, including sanitation, for all citizens without discrimination.

India has made significant strides in healthcare over the past few decades, yet there remain significant gaps in access, affordability, and quality of health services. Millions of citizens, particularly those in rural areas and economically marginalized communities, still face challenges in accessing essential healthcare facilities. Often, individuals are forced to spend substantial portions of their income on healthcare, leading to catastrophic health expenditures and pushing many families below the poverty line. Additionally, the absence of adequate sanitation facilities further exacerbates health inequalities and leads to the spread of preventable diseases. This amendment aims to address these issues comprehensively by making healthcare and sanitation a right accessible to every citizen.

Clause *(1)* of the proposed Article 21B mandates that the State shall provide accessible and affordable healthcare and sanitation facilities to all its citizens. By explicitly stating this obligation, the amendment seeks to establish a national commitment to universal healthcare and sanitation. This provision ensures that no citizen is deprived of healthcare services due to financial constraints or systemic inequalities. The language allows for flexibility in implementation, granting the State the authority to determine specific mechanisms, systems, and programs through legislation. This empowers the State to adapt healthcare delivery models to local needs and challenges, thereby enhancing the responsiveness and relevance of healthcare services provided under this clause.

Clause *(2)* prohibits discrimination in the provision of healthcare and sanitation facilities based on religion, race, caste, sex, descent, place of residence, or any other discriminatory factor. This clause reflects a commitment to equality in healthcare, reinforcing the constitutional ideals of secularism and social justice. In a diverse country like India, there are often disparities in healthcare access, with specific communities facing systemic disadvantages. By prohibiting discrimination, this provision aims to eliminate healthcare disparities and ensure that every citizen, irrespective of their background, has an equal right to receive healthcare and sanitation services. This clause aligns with the fundamental principles enshrined in Articles 14, 15, and 16 of the Constitution, reinforcing the right to equality and non-discrimination in all public services.

Clause *(3)* sets a specific financial commitment for the State, requiring that at least ten percent. of the State's annual estimated receipts be allocated towards achieving accessible and affordable healthcare and sanitation as provided under Clause *(1)*. This financial provision is essential to ensure that the right to healthcare is not merely a theoretical right, but a right that is backed by substantial and consistent public funding. Currently, India spends around 1.5 per cent. of its GDP on public healthcare, which is significantly lower than the global average. This financial allocation of five percent. of the State’s annual estimated

receipts aims to ensure that healthcare is prioritized within the State's budget, allowing for a steady improvement in healthcare infrastructure, workforce, and quality of services. The specified financial commitment will facilitate better public healthcare systems, increase the number of healthcare providers, improve sanitation infrastructure, and enhance preventive healthcare measures.

Overall, this amendment aims to establish an inclusive healthcare system that addresses the needs of every citizen and bridges the existing gaps in healthcare and sanitation infrastructure. By making healthcare a fundamental duty of the State, this amendment not only fulfills a critical social need but also aligns with international commitments, such as the Sustainable Development Goals, particularly Goal 3 (Good Health and Well-being) and Goal 6 (Clean Water and Sanitation).

The Bill also proposes to make an amendment to Schedule VII, List II-State List & List III-Concurrent List in order to transfer Public Health to the concurrent list in view of the major role played by Central Government in matters of healthcare in India which is expected to be a booming market and will witness several disruptions on account of innovation and use of technology. Through inclusion in concurrent list, it will be easier for both Central & State Governments to administer public health programs more effectively.

Through these amendments, India will move closer to achieving a healthcare system that is accessible, affordable, and free from discrimination. It is anticipated that this Bill will serve as a foundational step in building a healthier, stronger, and more inclusive society where every citizen can exercise their right to healthcare and sanitation as a matter of constitutional right.

Hence, this Bill.

ASHOK KUMAR MITTAL

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for making the right to affordable and accessible healthcare and sanitation facilities a fundamental right. It also provides that the State shall spend not less than ten percent. of the annual estimated receipts of the State for achieving the right to affordable and accessible healthcare.

The Bill, therefore, if enacted, will involve expenditure, both of recurring and non-recurring nature, from the Consolidated Fund of India. However, it is not possible to assess the actual financial expenditure likely to be incurred at this stage.

VI

Bill No. XXXVI of 2024

A Bill to make provisions in the service conditions of Central Government employees, employees of Public Sector Undertakings, employees of statutory, autonomous, and constitutional bodies, so as to enable them to avail upto two years of unpaid leave to pursue their startup venture 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

Short title and commencement.

1. *(1)* This Act may be called the Entrepreneurship Leave Act, 2024.

(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) "Entrepreneurship Leave" means a period of unpaid leave granted to an employee to pursue a startup venture;

For the purpose of this clause, subject to the provisions of any law made in this behalf by Parliament, or any rules prescribed under this Act, a "startup venture" shall mean a newly established entity incorporated either as a private limited company or a partnership firm or a limited liability partner with limited resources and turnover working towards innovation, deployment, development or commercialization of new processes, products or services driven by technology or intellectual property or recognized as such by the Government of India;

(b) "employee" means any individual employed on a permanent basis in the Central Government, or Public Sector Undertakings, or statutory or autonomous bodies, or constitutional bodies;

(c) "Head of the Organization" means the highest-ranking official or authority within the respective organization competent or authorised to grant leave as prescribed by rules made under this Act; and

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

CHAPTER II

GRANT OF ENTREPRENEURSHIP LEAVE

Eligibility and duration for grant of Entrepreneurship Leave.

3. *(1)* Any employee who has completed a minimum of five years of continuous service shall be eligible to apply for Entrepreneurship Leave.

(2) The Entrepreneurship Leave shall be granted only once during the entire service for a period not exceeding two years.

Procedure for application and sanction of Entrepreneurship Leave.

4. (*1)* An eligible employee desiring to avail Entrepreneurship Leave shall submit an application in such form and manner as may be prescribed, to the Head of the Organization, stating the purpose and duration of the leave.

(2) The Head of the Organization shall have the authority to sanction the Entrepreneurship Leave after considering the application and subject to the conditions of admissibility, as provided in this Act and such other conditions for grant of such leave, as may be prescribed.

(3) The Entrepreneurship Leave shall be sanctioned at the discretion of the Head of the Organization subject to the exigencies of service and his decision thereon shall be treated as final.

CHAPTER III

MISCELLANEOUS

Preservation of service.

5. *(1)* The period of Entrepreneurship Leave shall not be counted as a break in service for the purposes of seniority, promotion, or other service benefits.

(2) No financial benefits shall be payable during the period of Entrepreneurship Leave.

Accounting of Entrepreneurship Leave and combination with leave of other kinds.

6. The manner and procedure of accounting of Entrepreneurship Leave and its combination with leave of other kinds available to the employee concerned as per the existing leave rules in his organization, shall be such as may be prescribed.

Act to supplement other laws.

7. The provisions of this Act and the rules made thereunder shall be in addition to the existing leave rules applicable to the concerned employee in his organisation, and not in derogation of, any other law, rules, orders or instructions for the time being in force.

Power to remove difficulties.

8. 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 make rules.

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

(2) Every rule made 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

India, being a young nation with a growing population of aspiring entrepreneurs, recognizes the need to encourage and support its citizens in their entrepreneurial endeavors. This Bill seeks to provide Central Government employees, employees of Public Sector Undertakings, statutory, autonomous, and constitutional bodies with the opportunity to take upto two years of unpaid leave, to be known as Entrepreneurship Leave to pursue their startup ventures. This initiative aims to foster innovation and entrepreneurship, thereby contributing to the nation's economic growth and development. Further, the provisions of this Bill will ensure that employees can return to their positions without any loss of seniority or service benefits, with duration of their entrepreneurial leave being counted for the purpose of next promotion, thus providing a secure environment for entrepreneurial pursuits.

Hence this Bill.

VIVEK K. TANKHA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 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 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Act. As the orders and rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

VII

Bill No. XXXVIII 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 the Official Gazette, appoint.

Amendment of article 85.

2. In article 85 of the Constitution, for clause (1), the following shall be substituted, namely:—

‘‘(1). The President shall summon each House of Parliament to meet for three sessions in a year commencing in the first or second week of February, July and November respectively:

Provided that the President may from time to time summon each House of Parliament to meet for additional sessions, as he may deem necessary, at such time and place as deemed fit:

Provided further that each House of Parliament shall meet for not less than one hundred days in a year.’’

STATEMENT OF OBJECTS AND REASONS

Parliamentary convention has evolved in such a manner that Parliament usually meets for three Sessions in a year-Budget Session (February-May), Monsoon Session (July-August) and Winter Session (November-December). However, the Constitution does not provide for a fixed calendar of sittings or a minimum number of sittings. While the idea of a fixed calendar was explored by the General Purposes Committee of the Lok Sabha in 1955, the importance of having a minimum number of sittings was highlighted by the National Commission to Review the Working of the Constitution in 2002.

Enshrining the parliamentary convention in the body of the Constitution of India itself will ensure that the Government of the time cannot evade the accountability of the Legislature by delaying the commencement of a Session. It will also allow Members of Parliament to plan their parliamentary agenda around the fixed schedule to fully take advantage of every mechanism of parliamentary oversight and law-making. Furthermore, to address the decline in the number of sittings, it has been proposed that a minimum of one hundred days' sitting be incorporated within the Constitution itself.

The healthy functioning of a representative democracy requires a careful scrutiny of legislation and regular parliamentary engagement on issues of public importance. To achieve this objective, it is imperative that a fixed calendar for parliamentary sessions along with a minimum number of sittings is established.

Hence, this Bill.

DEREK O'BRIEN

VIII

Bill No. XL of 2024

A Bill to provide for a Digital Literacy Curriculum in all educational institutions to make the youth digitally literate and for matters connected therewith or incidental thereto.

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

Short title and Commencement.

1. (*1*) This Act may be called Right to Digital Literacy Act, 2024.

(*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 relation to a State, Government of that particular State and in all other cases, the Central Government;

(b) "Curriculum" means the Digital Literacy Curriculum formulated under section 3;

(c) "data privacy" means empowering individuals to make their own decisions about who can process their data and for what purpose;

(d) "data protection" means keeping data safe from unauthorized access;

(e) "digital" means regularly updating and cleaning electronic devices, using passwords that follow security protocols, organizing the files stored on the device, optimizing setting etc;

(f) "digital literacy" means the knowledge, skills and attitudes that allow individuals to be both safe and empowered in an increasingly digital world;

(g) "disinformation" means false information deliberately spread to deceive people;

(h) "educational institutions" means all schools and colleges in the territory of India;

(i) "impact assessment" means a holistic evaluation to understand the extent to which the Curriculum has penetrated into the lives of children and young adults and has enabled them to use the internet safely;

(j) "misinformation" means incorrect or misleading information;

(k) "Online Financial Fraud" means the act of obtaining financial gain through profit-driven criminal activity, including identity fraud, ransomware attacks, email and internet fraud, and attempts to steal financial account, credit card, or other payment card information;

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

(m) "sextortion" means a form of online abuse, wherein the cybercriminal makes use of various channels like instant messaging applications, short messaging service, online dating applications, social media platforms, porn sites etc., to lure the users into intimate video or audio chats and makes them pose nude or obtains revealing pictures from them;

(n) "social media etiquette" means treating others with respect online, personal information, images, or videos of anyone not to be shared without consent etc.; and

(o) "virtual digital asset" shall have the same meaning as defined under sub- section (c) of section 3 of the Finance Act, 2022. 6 of 2022.

3. (*1*) The appropriate Government shall, by notification in the Official Gazette, within six months from the date ofcommencement of this Act, formulate a Digital Literacy Curriculum for carrying out the purposes of this Act. Digital Literacy Curriculam.

(*2*) From such date, as the appropriate Government may, by notification in the Official Gazette specify, the Curriculum shall be adopted in all educational institutions.

(*3*) The appropriate Government shall take all measures to ensure that the Curriculum,—

(a) is designed after a preliminary diagnostic review of the local context and dueconsultations with concerned stakeholders in such manner as may be prescribed;

(b) includes content relating to data protection, data privacy, social media etiquette, digital hygiene, misinformation, disinformation, online financial fraud, sextortion, virtual digital assets and any other relevant subject that the appropriateGovernment may decide;

(c) is framed on a grade-by-grade basis for all educational institutions; and

(d) is revised at such requisite intervals of time, as may be prescribed by the appropriate Government, to keep pace with the changing technological landscape.

4. **(*1*) The appropriate Government shall take measures to address the human resource requirements for implementation of the Curriculum by planning, developing, implementing and regularly updating educational and training programs in collaboration with institutions of higher education and training.** Appropriate Government to take measures to address human resource requirement, training, etc.

(*2*) The appropriate Government shall ensure the appointment of such number of teachers with such qualifications, as may be prescribed for teaching the Curriculum in educational institutions.

(*3*) The appropriate Government shall make efforts to incorporate international best practices in digital literacy in the curriculum.

5. The appropriate Government shall take all measures to ensure effective co-ordination between services provided by concerned Ministries and Departments of that Government such as those dealing with Information Technology, Education, Finance, Home Affairs, Women and Child Development for carrying out the purposes of this Act. Co-ordination within the appropriate Government.

6. (*1*) The appropriate Government shall design an impact assessment mechanism to evaluate the efficiency of the Curriculum. Impact assessment.

(*2*) The appropriate Government shall conduct an impact assessment as per sub-section (1) at five-year intervals in such manner as may be prescribed:

Provided that the first impact assessment shall be conducted after five years of the implementation of the Curriculum.

7. **The Central Government shall, after due appropriation made by Parliament by law inthis behalf, provide requisite funds to the State Governments, from time to time, for carrying out the purposes of this Act**. Central Government to provide funds.

Act to have overriding Effect.

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

Power to make rules.

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

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

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

STATEMENT OF OBJECTS AND REASONS

As of December 2023, there are a total of 93.6 crore internet subscribers in India according to the Telecom Regulatory Authority of India (TRAI). Since the Covid-19 pandemic made remote working and remote learning the norm, the world has witnessed a surge in dependence on the internet. Hence, social media platforms have become mainstream vehicles for civic participation. As a result, invasions of privacy, increasing surveillance, digital financial transactions are just some of the complex issues that face us today.

As per NITI Aayog, "Most of the internet users are in urban educated classes. This situation reflects that majority of the Indians still remain unfazed by the information technology revolution. With such a disparity in digital access and literacy, it is hard to aspire for inclusion and equity. India is expected to have the largest working age population, which requires rapid job creation. Digital literacy becomes a crucial medium of communication with global citizens".

Even though children are seemingly adept at using digital tools, this does not mean that they are digitally literate. Digital literacy encompasses awareness of digital rights, balanced use of technology, digital emotional intelligence, digital safety and security and civic digital self-expression. School going children can be extremely vulnerable to cyber bullying, phishing, online scams, malware and the like. Besides, children need to be sensitised to the perpetual nature of the internet and the perils of posting personally identifiable information online. Children and young adults need to be digitally literate even when they are offline since their schooling, societal conditioning and future job opportunities largely depend on their understanding of and participation in the digital ecosystem.

This Bill assumes greater significance since India does not have a Data Protection lawyet. At the same time, it is only a first step towards our goal of a digitally literate India. Various challenges to mainstreaming digital literacy include low-quality technological infrastructure, cost of infrastructure needed for the use of Information and Communications Technology (ICT), lack of online content in local languages and that related to everyday life, lack of understanding of the decision makers, lack of evidence based information and a lack of sufficient regulation in relation to privacy and transparency. We must look at digital literacy as one part of the solution and not the panacea.

Notably, the United Nations Committee on the Rights of the Child, in 2014, advised member governments (including India) to include digital literacy in their national school curriculums. Countries like Scotland, Australia, Netherlands already have a digital literacy framework in place. Even though the National Education Policy, 2020 envisages digital literacy as a part of the curriculum framework for school and adult education, it does not define the same. This Bill seeks to incorporate a rights based approach to digital literacy and citizenship. The thrust to Digital India must be accompanied by an adequate legislative response to the opportunities and threats presented by the internet.

The Bill seeks to achieve the above objectives

DEREK O'BRIEN

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the appropriate Government to take measures as regard to human resource development and training by appointing teachers for imparting education on Digital Literacy Curriculum. Clause 7 of the Bill provides that the Central Government shall provide requisite funds for carrying out the purposes of the Bill.

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one hundred crore would be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 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 details only, the delegation of legislative power is of a normal character.

IX

Bill No. XXXIX of 2024

A Bill to amend the Bharatiya Nyaya Sanhita, 2023.

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 Bharatiya Nyaya Sanhita (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 63.

45 of 2023

2. In section 63 of the Bharatiya Nyaya Sanhita 2023, for Exception 2, the following shall be substituted, namely:—

"Exception 2.—The fact of a subsisting marriage of the accused and the victim shall not be treated as a mitigating factor for the offence under this section."

STATEMENT OF OBJECTS AND REASONS

Under section 63 of the Bharatiya Nyaya Sanhita 2023, the offence of rape provides for an exception—'Sexual intercourse or sexual acts by a man with his own wife, the wife not being under eighteen years of age, is not rape'. The 42nd Report of the Law Commission (1971) suggested the removal of this exception. The Indian Penal Code, 1860 was amended in the year 1983 to criminalise spousal rape during the period of judicial separation, as suggested by the 84th Law Commission Report. However, the exception of martial rape still remained.

Article 2 of the Declaration of the Elimination of Violence against Women includes marital rape unequivocally in the definition of violence against women. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Committee also suggested that India should 'widen the definition of rape in its Penal Code to reflect the realities of sexual abuse experienced by women and to remove the exception of marital rape from the definition of rape'. Inspired by this, the Justice Verma Committee recommended deleting the exception. Apart from being a moral obligation, incorporation of such international treaties is prescribed in Article 253 of the Constitution of India. In addition, article 51 requires that the State should endeavour to promote international peace and security, maintain good relations with other nations, and respect international law. Under both these articles, it is a mandate that the Legislature removes this exception.

The Protection of Women from Domestic Violence Act, 2005 (PWDVA) did not criminalise marital rape but recognised it as a form of domestic violence, providing a first step towards criminalisation. The marital rape exception is antithetical to the Right to Life and Personal Liberty provided under article 21 of the Indian Constitution, which states that 'No person shall be deprived of his life and personal liberty except according to the procedure established by law'. Through the course of time, the Supreme Court has expanded the Right to Life beyond a mere literal protection of life and liberty. It includes a dignified life, safe living conditions, a woman's right to her reproductive choices, and privacy. Thus, there is a need to remove the exception of marital rape from the offence of rape.

The Bill seeks to achieve the above objectives.

DEREK O' BRIEN

X

Bill No. XLVII of 2024

A Bill to establish a National Tribal Heritage Council for the protection, preservation and promotion of the rich cultural heritage of tribal communities 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:–

CHAPTER I

PRELIMINARY

1. *(1)* This Act may be called the National Tribal Heritage Council 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.

Definitions.

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

(a) "Council" means the National Tribal Heritage Council constituted under section 3 of this Act;

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

(c) "State Committees" mean the State Tribal Heritage Committees established under section 7 of this Act.

(d) "tribal communities" refers to the Scheduled Tribes as recognized under the Constitution of India;

(e) "tribal heritage" includes the cultural, historical, linguistic, and artistic expressions and practices of tribal communities including any act or practice, representation, expression, knowledge, skill, as well as the instrument, object and artefact associated therewith, that tribal communities recognize as part of their heritage.

CHAPTER II

THE NATIONAL TRIBAL HERITAGE COUNCIL

Constitution of the National Tribal Heritage Council.

3. ***(1)* The Central Government shall, within one year from the date of commencement of this Act, by notification in the Official Gazette, constitute a body to be known as the National Tribal Heritage Council for the protection, preservation and promotion of tribal heritage of the country and to perform such functions as assigned to it, under this Act.**

***(2)* The head office of the Council shall be at New Delhi.**

***(3)* The Council shall consist of the following -**

***(i)* a Chairperson, who shall be an eminent person with extensive knowledge and experience in tribal culture and heritage;**

***(ii)* five representatives from recognized tribal communities in the country - Members;**

***(iii)* two experts in the field of anthropology or cultural studies - Members;**

***(iv)* one representative from the Union Ministry of Tribal Affairs – Member *ex-officio*;**

***(v)* one representative from the Union Ministry of Culture – Member *ex-officio*;**

***(vi)* two representatives from civil society organizations working in the field of tribal heritage - Members; and**

***(vii)* one legal expert with experience in heritage conservation laws - Member.**

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

(4) **The Central Government shall provide the Council with such number of officers and employees as may be necessary for the efficient performance of the functions of the Council under this Act.**

(5) **The salary and allowances or remuneration payable to, the term of office, the mode of filling of vacancies and other terms and conditions of service etc. of the Chairperson, Members, officers and employees of the Council shall be such as may be prescribed.**

(6) **The Council shall have the power to regulate its own procedure.**

4. The Council shall perform any or all of the following functions, namely, to: — Functions of the Council.

(a) formulate and implement policies for the protection, preservation, and promotion of tribal heritage;

(b) identify and document the tangible and intangible cultural heritage of tribal communities of the country;

(c) **establish and maintain cultural centers, museums, and libraries dedicated to tribal heritage;**

(d) promote research, education, and awareness about tribal heritage;

(e) **provide financial and technical assistance to tribal communities and organizations engaged in the protection of tribal heritage;**

(f) collaborate with national and international organizations for the exchange of knowledge and best practices in tribal heritage conservation;

(g) advise the Central Government on legislative and administrative measures necessary for the protection of tribal heritage; and

(h) undertake such other measures as the Council may deem appropriate for the implementation of the provisions of this Act and perform such other functions as may be assigned to it by the Central Government.

CHAPTER III

RIGHTS AND OBLIGATIONS

5. The tribal communities shall have the right to: - Rights of tribal communities.

(a) protect, preserve, and promote their cultural heritage;

(b) participate in the decision-making processes regarding their cultural heritage; and

(c) access financial and technical assistance provided by the Council for the protection of their cultural heritage.

Obligations of the Central Government.

6. ***(1)*** **The Central Government shall,-**

(a) **ensure the protection, preservation, and promotion of tribal heritage; and**

(b) **take necessary measures to prevent the exploitation and commercialization of tribal heritage without the consent of the respective tribal communities.**

CHAPTER IV

ROLE OF STATE GOVERNMENTS AND DISTRICT ADMINISTRATION

Role of State Governments.

7. ***(1)*** **Every State Government shall, by notification, constitute, State Tribal Heritage Committees to support the activities of the Council at the State level.**

(2) **The State Committees shall consist of representatives from tribal communities, experts in tribal culture, and government officials, to be appointed by the respective State Government, in such manner as may be prescribed.**

(3) The State Committees shall coordinate with the Council to implement policies and programs for the protection of tribal heritage.

Role of district administration.

8. *(1)* The District Collector or an officer designated by the District Collector shall be responsible for the implementation of the provisions of this Act at the district level.

(2) **The District Administration shall ensure that,-**

(i) **tribal heritage sites and practices are identified and documented;**

(ii) **financial and technical assistance is provided to tribal communities for heritage protection;**

(iii) **complaints related to the violation of the provisions of this Act are addressed swiftly; and**

(iv) **regular inspections are conducted to ensure compliance with heritage protection guidelines.**

CHAPTER V

GRIEVANCE REDRESSAL

Establishment of grievance redressal mechanism.

9. *(1)* **The Council shall, in such manner as may be prescribed, establish a grievance redressal mechanism to address complaints regarding the violation of the provisions of this Act, received in such form and manner as may be prescribed.**

(2) **The Council shall ensure that the grievance redressal mechanism includes, -**

(i) **a toll-free helpline number for lodging complaints;**

(ii) **a web portal for filing and tracking complaints; and**

(iii) **designated officers at the State and district levels to address and resolve complaints within a stipulated timeframe.**

CHAPTER VI

DATABASE MANAGEMENT

Establishment of a database on tribal heritage.

10. *(1)* **The Council shall establish and maintain a centralized database at the district, state, and national levels for recording real-time data on tribal heritage.**

(2) The database shall include, but not be limited to,-

(i) details of tribal heritage sites and practices;

(ii) details of tribal communities;

(iii) documentation of tangible and intangible tribal heritage;

(iv) status of protection and preservation efforts; and

(v) details of financial and technical assistance provided.

Role of District Administration in database management.

11. *(1)* The District Collector or an officer designated by the District Collector shall be responsible for ensuring the timely and accurate entry of data into the database at the district level.

(2) The District Administration shall coordinate with tribal communities and other stakeholders to ensure real-time data entry and accuracy.

State and National Level coordination.

12. *(1)* The State Governments, in coordination with the respective State Committees, shall oversee the integration and management of the district-level databases to form a comprehensive state-level database.

(2) The Central Government, in coordination with the Council, shall ensure the integration of state-level databases into a national database.

Accessibility and transparency.

13. *(1)* The database shall be accessible to designated authorities established under this Act, for monitoring and enforcement purposes.

(2) The tribal communities shall have the right to access relevant data pertaining to their tribal heritage.

Data security and privacy.

14. *(1)* The Central Government shall ensure that the database is secure and that the privacy of tribal communities is protected.

(2) Any unauthorized access to or misuse of the database shall be punishable under relevant laws.

CHAPTER VII

PENALTIES

Penalty

15. *(1)* Any individual or entity found to be acting in violation of the provisions of this Act shall be liable to be punished for the first offence, with imprisonment for two years or with fine which may extend to one lakh rupees, or both and for any second or subsequent offence with imprisonment for five years or with fine which may extend to five lakh rupees, or both:

Provided that the penalty under this section shall be in addition to and not in derogation of imposition of any penalty under any other law for the time being in force.

CHAPTER VIII

MISCELLANEOUS

Central Government to provide funds.

16. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds, as it may deem fit, to the Council and the State Committees, for carrying out the purposes of this Act.

Furnishing of Annual Reports etc.

17. (1) The Council shall prepare once in every year, in such form, manner and at such time as may be prescribed, an annual report giving a full account of its activities during the previous year as well as such other reports and returns, as may be directed from time to time, and copies of such report and returns shall be forwarded to the Central Government.

(2) A copy of the annual report and returns received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.

Power to remove difficulties

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

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

Act not in derogation of any other law.

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

Power to make rules.

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 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

India is home to a vast and diverse tribal heritage that encompasses a wide array of cultural, linguistic, historical, and artistic expressions and practices. The tribal communities of India, spread across various regions and States, have rich traditions that include unique languages, folklore, dance, music, crafts, rituals, and ways of life. This heritage is not only a testament to India's cultural diversity but also contributes significantly to the country's cultural mosaic.

However, this invaluable tribal heritage faces several challenges that threaten its preservation and continuation. Among these challenges are:

(i) Urbanization and Industrialization: The rapid pace of urbanization and industrialization has led to the displacement of tribal communities from their ancestral lands, disrupting their traditional way of life and leading to the erosion of their cultural practices.

(ii) Globalization: The influence of global cultural trends and the spread of mass media have contributed to the homogenization of cultures, putting traditional tribal practices at risk of being forgotten or replaced by more dominant cultural norms.

(iii) Economic Marginalization: Many tribal communities face economic challenges that limit their ability to sustain and promote their cultural practices. Lack of resources and opportunities often forces these communities to prioritize immediate economic needs over the preservation of their heritage.

(iv) Environmental Degradation: The degradation of natural habitats due to deforestation, mining, and other activities not only affects the livelihoods of tribal communities but also impacts their cultural practices, which are often closely tied to their natural surroundings.

(v) Legal and policy gaps: There are gaps in the legal and policy frameworks for the protection of tribal heritage, leading to insufficient safeguarding of their cultural rights and heritage.

(vi) Lack of Documentation and Research: Much of the tribal heritage remains undocumented, and there is a lack of comprehensive research and academic focus on the diverse cultural practices of tribal communities. This makes it difficult to develop informed policies and initiatives for their preservation.

Given these challenges, there is an urgent need for a comprehensive framework dedicated to the protection, preservation, and promotion of tribal heritage. The establishment of the National Tribal Heritage Council aims to address the multifaceted challenges being faced in the preservation of tribal heritage and providing a robust framework for its protection, preservation, and promotion. This Bill aims to ensure that the rich and

diverse cultural heritage of India's tribal communities continues to thrive and contribute to the nation's cultural legacy. This Bill also confers the right to tribal communities to protect, preserve, and promote their cultural heritage, participate in the decision-making processes regarding their cultural heritage, and access financial and technical assistance provided by the Council for the protection of their heritage. It also lays down the role of the State Governments and District Administration in supporting the functioning of the Council. Further it provides for establishment of a centralized database at the district, state, and national levels for recording real-time data on tribal heritage, its access etc.

This Bill seeks to achieve the above-said objectives.

SUMITRA BALMIK

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of the National Tribal Heritage Council, appointment of the Chairperson, Members, officers and employees therein and the salary and allowances or remuneration payable to them and other terms and conditions of their service. Clause 4 *inter alia* provides that the Council shall establish and maintain cultural centers, museums, and libraries dedicated to tribal heritage; provide financial and technical assistance to tribal communities and organizations engaged in the protection of tribal heritage etc. Clause 5 *inter alia* confers the right to tribal communities to protect, preserve, and promote their cultural heritage and access financial and technical assistance provided by the Council for the protection of their heritage. Clause 6 lays down the obligations of the Central Government. Clause 7 provides for establishment of State Tribal Heritage Committees. Clause 8 lays down the role of the District Administration. Clause 9 provides for the establishment of a grievance redressal mechanism including toll-free helpline number, web portal and designated officers at the State and District levels to address and resolve complaints within a stipulated timeframe. Clause 10 provides for the establishment of a centralized database at the district, State and National level for recording real-time data on tribal heritage. Clause 16 provides that the Central Government shall grant funds to the Council and the State Committees for carrying out the purposes of this Act.

The Bill, 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 18 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 20 empowers the Central Government to make rules for carrying out in the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of normal character.

XI

Bill No. LI of 2024

A Bill to provide for establishment of an Authority to regulate coaching institutes across the country for the oversight and accountability of such institutes, to ensure that they provide a conducive learning environment while safeguarding the mental and emotional health of students, to provide for liability of the coaching institute in case of suicide committed by the student 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 Coaching Institutes (Accountability and Regulation) Act 2024.

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

Definitions.

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

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

(b) "Authority" means the Coaching Institutes Regulatory Authority established under Section 3 of this Act.

(c) 'coaching institute' means any educational institution or establishment, established either before or after the enactment of this Act, whether instituted, run, or administered by an individual, partnership, trust, society, company, or any other legal entity, that provides coaching or tutoring services to students, for any study programme or academic support and enhancement to students at school, college, and university level or for preparing them for appearing in competitive examinations to gain admission into higher education or any professional course including engineering or medical or for appearing in any examination conducted by any Government or private establishment for the purpose of securing employment;

Explanation– for the purpose of this definition, the term 'coaching institute' shall not include any school, institute, college, or university, established or recognized by the appropriate Government;

(d) 'competitive examination' refers to any examination conducted for admission into educational institutions or for recruitment to government or private sector jobs; and

(e) 'student' refers to any individuals enrolled or receiving coaching services from a coaching institute as defined in sub-section *(c)*.

Establishment of the Coaching Institutes Regulatory Authority (CIRA).

3. *(1)* **The Central Government shall, within a period of one year from the date of commencement of this Act, by notification in the Official Gazette, establish an Authority to be known as the Coaching Institutes Regulatory Authority to exercise the powers conferred upon and to perform the functions assigned to it, under this Act.**

(2) **The Authority shall have its headquarters in New Delhi and offices in every State and Union territory.**

(3) **The Authority shall consist of: —**

(i) **a Chairperson, to be nominated by the Central Government, from amongst the Members of the Authority;**

(ii) **not less than seven Members, to be appointed by the Central Government, with at least one member each being a , –**

(a) **person with extensive professional expertise in the field of education;**

(b) **person with extensive professional expertise**

in the field of mental health;

(c) **representative of coaching institutes;**

(d) **representative of parents studying in coaching institutes; and**

(e) **representatives of students undertaking coaching from coaching institutes.**

(4) **The Authority shall have a Secretariat with such number of officers and staff headed by a Secretary, who shall be the Member Secretary to the Authority, for the efficient discharge of its functions under this Act.**

(5) **The salary and allowances payable to, the term of office and other terms and conditions of service of the Chairperson and Members of the Authority as well as those of the officers and staff thereof including the mode of their recruitment and requisite qualifications and experience shall be such as may be prescribed by the Central Government.**

(6) The Authority shall observe such procedure in the regulation and transaction of its business, as may be prescribed by the Central Government, from time to time.

Duties and functions of the Authority.

4. The Authority shall perform all or any of the following functions, namely, –

(i) creating and maintaining a database of coaching institutes across the country in coordination with the appropriate Government;

(ii) conduct the process of registration of coaching institutes across the country as stipulated under section 5 of this Act in coordination with the appropriate Government;

(iii) formulating guidelines and regulations for the effective functioning of coaching institutes, ensuring adherence to standards of teaching, infrastructure, and student welfare;

(iv) formulating a code of conduct to be adhered by the coaching institutes, which shall include but not be limited to issuance of directions regarding maintenance of proper records by the institutes, norms regarding ideal strength of a classroom, time schedule of classes, support systems for students, basic infrastructure, and such other requirements to be fulfilled by the coaching institutes, as may be prescribed from time to time;

(v) monitoring and assessing coaching institutes to ensure compliance with the provisions of this Act by conducting regular inspections and audits;

(vi) act as a national-level grievance redressal authority in matters related to violation of the provisions of this

Act and rules and regulations issued thereunder by coaching institutes by receiving complaints from students, parents, or any concerned individuals in this regard, with provisions for their redressal;

(vii) investigating cases relating to student suicides to understand the reasons behind the same including the role or negligence on the part of the coaching institute, if any, and if found guilty, initiate appropriate action against the coaching institute as stipulated under sections 7 and 8 of this Act;

(viii) Initiating *suo-moto* investigations into matters related to offences committed by any coaching institute as defined under section 6 of this Act;

(ix) collaborating with mental health organizations and experts to develop programmes and initiatives aimed at addressing student stress, anxiety, and mental health issues within coaching institutes and monitoring their strict implementation in coaching institutes**;**

(x) advise the appropriate Government on such matters arising out of the administration of this Act or as may be referred to it by the appropriate Government, from time to time; and

(xi) such other functions, as it may consider necessary, for implementation of the provisions of this Act and any other matters incidental to the above functions.

Compulsory registration of Coaching Institutes.

5. *(1)* With effect from such date as the Central Government may by notification in the Official Gazette appoint, no person or establishment shall run a coaching institute without prior registration with the Authority.

(2) The procedure for application for registration including the conditions to be fulfilled by the coaching institutes to be eligible for registration, the form and manner of application; the tenure of registration and renewal of registration on expiry thereof shall be such as may be prescribed.

(3) Any person or establishment running a coaching institute before the commencement of this Act shall apply to the Authority within such period from the date of commencement of this Act, as may be determined by the Authority and in such form, manner and subject to fulfilment of such conditions as may be prescribed.

Suspension and Revocation of Registration.

6. Without prejudice to any other penal or legal action that may be taken for violation of the relevant law, the registration of a coaching institute may at any time be suspended or revoked, if the Authority after due process is satisfied that the coaching institute has contravened any of the provisions of this Act or violated any of the prescribed terms and conditions, subject to which the registration was given.

Provided that, no such order shall be passed by the Authority without giving the coaching institute a reasonable opportunity of being heard.

Liability of Coaching Institutes for student suicides.

7. A coaching institute shall be liable for the suicide of a student undertaking coaching therefrom, if it is established beyond doubt by the Authority after due process that the suicide was committed a result of, –

(a) undue academic pressure exerted by the staff or management of the coaching institute creating an excessively stressful environment for the student;

(b) negligence in addressing complaints or grievances raised by the student regarding academic pressure or harassment or undue stress;

(c) failure to provide adequate counselling or mental health support services to the student; and

(d) any other action or omission by the coaching institute that contributed to mental distress of the student leading to the suicide.

Offences and Penalties.

8. *(1)* Any coaching institute that is held liable for a student suicide as per the provisions of section 7 of this Act, shall be punishable with imprisonment or with fine or with both.

(2) Any coaching institute who contravenes or acts in violation of any of the provisions of this Act or the rules or regulations made thereunder shall be punishable for the first offence with suspension of its registration for such period, as may be specified by the Authority, and for second or subsequent offence, with revocation of its registration leading to permanent cessation of operations, or closure and seizure of assets in cases of severe or repeated non-compliance, as may be determined by the Authority based on the severity and frequency of offence.

Cognizance of Offences.

9. Any offence committed under this Act shall be cognizable and triable by a court not inferior to that of a Metropolitan Magistrate or the Court of a Judicial Magistrate of the First Class exercising jurisdiction under the Bharatiya Nagarik Suraksha Sanhita, 2023, in the area where the coaching institute is situated, shall try any offence under this Act.

46 of 2023.

Offences by a Company.

10. *(1)* Where an offence under this Act 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 contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing 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 was 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 purposes of this section—

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

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

Authority to have powers of Civil Court.

11. The Authority shall, while investigating any matter referred to it under clauses *(vi), (vii)* and *(viii)* of section 4, have all the powers of a Civil Court trying a suit and, in particular in respect to the following matters, namely, –

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing Authority for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

Appropriate Government to consult the Authority.

12. The appropriate Government shall consult the Authority on all policies related to coaching institutes across the country.

Duty of State Governments.

13. Every State Government shall be responsible for the implementation and enforcement of the provisions of this Act within its respective jurisdictions, establish and maintain necessary administrative and regulatory infrastructure and cooperate with the Authority in the implementation and enforcement of this Act.

Central Government to provide adequate funds to the Authority.

14. The Central Government shall, after due appropriation made by Parliament by law on this behalf, grant such sums of money to the Authority, as it may think fit, for carrying out the purposes of this Act.

Accounts and Audit.

15. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed, in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority as audited and certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually by the Authority to the Central Government which shall cause the same to be laid, as soon as may be after it is received, before each House of Parliament.

Annual Report of the Authority.

16. *(1)* The Authority 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 forward the same to the Central Government, which shall cause it to be laid, as soon as may be after it is received, before each House of Parliament.

(2) Where the report or any of its part is related to any of the issues connected with the State Government, a copy of such report shall be forwarded to the Governor of that State, who shall in turn, cause to be laid before the State legislature concerned, such report along with an explanatory memorandum concerned with the action taken or proposed to be taken on the recommendations related to the State, if any, and reasons for not accepting any of the recommendations made therein, within a period of one year from the date of receipt of such report.

Act not in derogation of any other law.

17. 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.

18. 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.

Power to remove difficulties.

19. 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 make rules and regulations.

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

(2) The Authority, may, by notification in the Official Gazette, make regulations, for carrying out the provisions of this Act.

(3) Every rule and every regulation under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making

any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and Savings.

21. Any provisions inconsistent with the provisions of this Act shall be repealed, and all actions taken previously shall be saved.

STATEMENT OF OBJECTS AND REASONS

The coaching industry in India has burgeoned into a pervasive phenomenon, with reports suggesting revenue skyrocketing from 24,000 crore rupees in 2015 to 58,088 crore rupees presently, and projections indicating further growth to 1,33,995 crore rupees by 2028. What was once considered a temporary solution has evolved into a lifelong commitment for students, beginning as early as age five and persisting for decades, perpetuating across generations. Approximately, 7.1 crore students are enrolled in tuitions, leading to concerns about the erosion of childhood and the escalation of stress levels due to relentless academic pressure. The increase in student suicides, exemplified by 26 reported cases in Kota alone in 2023, underscores the immense pressure faced by school children.

The Department of Higher Education, under the Ministry of Education, has highlighted issues such as inadequate facilities, and questionable teaching methodologies prevalent in coaching institutes. The rise of "dummy schools" affiliated with coaching centres, where physical attendance is not mandatory, has further exacerbated regulatory challenges. Families often uproot themselves and incur substantial debts to relocate to coaching hubs in pursuit of perceived educational quality, contributing to social and financial strains. There is an urgent need for comprehensive regulation to safeguard student well-being and ensure the integrity of the education system. A large-scale survey is warranted to study the industry comprehensively, particularly its impact on school-level education where even kindergarten children are reliant on private tuitions.

In light of the same, the proposed regulation aims to establish a Regulatory Authority for overseeing and regulating coaching institutes across the country and formulating stringent guidelines and oversight mechanisms to mitigate adverse fallouts due to the stress and anxiety to perform well generated by coaching institutes while promoting a balanced and nurturing learning environment for students.

Hence, this Bill.

FAUZIA KHAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Coaching Institutes Regulatory Authority and appointment of a Chairperson and Membersas well as officers and staff of the Authority and provides for the salaries and allowances payable to them.Clause 14 provides for the provision of adequate funds to the Authority by the Central Government.

The Bill, therefore, if enacted, would involve both recurring and non-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 19 of the Bill empowers the Central Government to make issue orders to remove difficulties. Sub-clause (1) of Clause 20empowers the Central Government to make rules for carrying out the provisions of the Bill, whereas, sub-clause *(2)* empowers the Coaching Institutes Regulatory Authority to make regulations for carrying out the purposes of the Bill.As the rules, regulations and orders will relate to matters of detail only, the delegation of legislative power is of a normal character.

XII

Bill No. L 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 the Official Gazette, appoint.

Insertion of new Part XIV-B.

2. After Part XIV-A of the Constitution, the following new Part shall be inserted, namely, –

"**PART XIV-B**

SPECIAL PROVISIONS RELATING TO ECONOMIC OFFENCES

Enforcement Commission.

" 323C. (1) There shall be a Commission, which shall serve as a specialized economic laws enforcement and intelligence agency with the primary objective of enforcing laws concerning economic offences and related matters, to be known as Enforcement Commission.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of an Enforcement Commissioner, Regional Enforcement Commissioners (for various regions) and Zonal Enforcement Commissioners (for various zones).

(3) The Enforcement Commissioner shall be appointed by the President by warrant under his hand and seal based on the recommendation of a Selection Committee consisting of—

(a) the Prime Minister - Chairperson;

(b) the Chief Justice of India – Member; and

(c) the Leader of the Opposition in the House of the People – Member.

Explanation. — For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognized as such, the Leader of the single largest group in opposition to the Government in the House of the People shall be deemed to be the Leader of Opposition.

(4) The Regional Enforcement Commissioners and the Zonal Enforcement Commissioners shall be appointed by the President on the recommendation of the Enforcement Commissioner.

(5) The Enforcement Commissioner shall hold office for a fixed term of three years and shall not be eligible for reappointment:

Provided that the Enforcement Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Hight Court and the conditions of service of the Enforcement Commissioner shall not be varied to his disadvantage after his appointment.

(6) Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Regional and Zonal Enforcement Commissioners shall be such as the President may by rule determine.

(7) The President or the Governor of a State, shall, when so requested by the Enforcement Commission, make available to the Enforcement Commissioner or to a Regional or Zonal Enforcement Commissioner, such officer and staff as may be necessary for the efficient discharge of the duties conferred on the Commission by clause (9).

(8) The Commission shall have the power to regulate its own procedure.

(9) It shall be the duty of the Commission to ensure enforcement of the extant laws pertaining to economic offences in the country covering, but not limited to —

(a) investigating suspected contraventions of foreign exchange laws and regulations to ensure orderly functioning of foreign exchange market in India;

(b) investigating offences related to money laundering including the identification, tracing, and confiscation of assets derived from proceeds of criminal activities and to provisionally attach the property and ensure prosecution of the offenders and confiscation of the property by the Special Court;

(c) deter fugitive economic offenders from evading the process of law in India by staying outside the jurisdiction of Indian courts by investigating their cases and attaching the properties of such fugitive economic offenders, who have escaped from India warranting arrest and provide for the confiscation of their properties to the Central Government;

(d) adjudicate show-cause notices issued under extant foreign exchange regulations laws and impose penalties on those adjudged to have contravened the law;

(e) monitoring foreign exchange regulations to prevent smuggling activities and sponsor cases of preventive detention with regard to contraventions of foreign exchange laws and regulations;

(f) rendering cooperation to foreign countries in matters related to money laundering and restoration of confiscated assets;

(g) inquire into specific complaints with respect to violation of laws pertaining to economic offences;

(h) monitoring the implementation of all existing Central laws pertaining to economic offences and advise the Central Government for modification of the extant provisions to keep pace with changed scenarios;

(i) preparing and presenting to the President, annually and at such other times as the Commission may deem fit, reports regarding the enforcement of laws pertaining to economic offences containing therein recommendations as to the measures that should be taken by the Union or any State for the effective implementation of such laws; and

(j) to discharge such other functions in relation to the implementation and enforcement of all laws and regulations related to economic offences in the country as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(10) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(11) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum

explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(12) The Enforcement Commission shall, while investigating any matter referred to in sub-clauses (a) to (f) or inquiring into any complaint referred to in sub-clause (g) of clause (9), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:

(a) summoning and enforcing the attendance of any person from any part of Indian and examining him on oath:

(b) requiring the discovery and production of any document;

(c) receiving evidence of affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents; and

(f) any other matter which the President may by rule, determine.

Amendment of the Seventh Schedule.

3. In the Seventh Schedule to the Constitution, in List I—Union List, after entry 8, the following entry shall be inserted, namely: —

"8A. Enforcement Commission."

STATEMENT OF OBJECTS AND REASONS

Presently, the Enforcement Directorate (ED) holds extensive jurisdiction and possesses significant powers to investigate and prosecute economic offenses in India. However, various issues regarding its autonomy and independent functioning continue to persist today. The Enforcement Directorate's extensive powers in investigating economic crimes have been criticized for being misused, with minor offences being brought under the purview of the Prevention of Money Laundering Act, 2002 (PMLA). Reports indicating an alleged disproportionate focus on opposition leaders in ED investigations underscore the need for impartiality and transparency in its functioning. Concerns have been raised about the Enforcement Directorate's expanded scope and potential misuse of its powers, leading to calls for enhanced oversight and accountability. The appointment of acting directors and the prevalence of prolonged vacancies in key positions further raise concerns about stability and impartiality within the agency. The process regarding selection of cases to be investigated by the Enforcement Directorate has raised concerns about transparency in its functioning, and allegations of bias against opposition parties. Moreover, despite numerous investigations, conviction rates remain low, undermining the effectiveness and credibility of the Enforcement Directorate. Recent judicial pronouncements have upheld the Enforcement Directorate's powers but have also highlighted the need for re-evaluation and scrutiny of its actions.

Therefore, it is imperative to establish an independent constitutional body, *namely*, the Enforcement Commission, with the primary objective of enforcing laws concerning economic offences. This shall ensure its autonomy, impartiality, and accountability, safeguarding it from undue influence or interference. By enshrining its status in the Constitution, it is aimed to uphold the principles of justice, transparency, and the rule of law, thereby strengthening India's democratic institutions and governance framework. The Bill also proposes a Selection Committee consisting of the Prime Minister, Chief Justice of India and the Leader of the Opposition in the House of People (Lok Sabha) for selection of the head of the Commission, further bolstering transparency in the functioning of the Commission.

The Bill seeks to achieve the above objectives.

FAUZIA KHAN

XIII

Bill No. XLVIII of 2024

A Bill to provide for a dedicated institution in the form of the National Agricultural Commission to address the multifaceted challenges faced by the agricultural sector and promote its sustainable development 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 National Agricultural Commission Act, 2024.

(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) "agriculture" means the basic and applied sciences of cultivating the soil along with water and land use management, including crop production and gathering, pest control, horticulture, floriculture, animal husbandry, sericulture, pisciculture, apiculture, dairy and poultry farming, forestry including farm forestry, agricultural engineering and technology, marketing and processing of agricultural, dairy and poultry products and other allied activities, whether or not undertaken jointly with agriculture;

(b) "agricultural produce" means anything produced from the land or water in the course of agriculture and includes forest produce or any produce of like nature either processed or unprocessed and includes food items such as wheat, rice, coarse grains, pulses, edible oilseeds, oils, vegetables, fruits, sugarcane, edible nuts, spices, coconut, honey, tobacco etc.; dairy and poultry products intended for human consumption in its natural or processed form; fish; raw cotton, raw jute and raw silk; cattle fodder including oil cakes and other unprocessed and processed items used for feeding livestock; rubber, bamboo and such other agricultural produce as may be notified by the Central Government, from time to time;

*(c) "*agricultural sector" encompasses all activities and establishments primarily engaged in agriculture and other allied activities;

(d) "Commission" means the National Agricultural Commission established under section 3 of this Act;

(e)"farmer" means a person engaged in the production of agricultural produce by self or by hired labour or otherwise, and includes the farmer producer organisations;

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

*(g) "*stakeholders" include land owning farmers, agricultural workers, agricultural scientists, policymakers, government agencies, and other relevant entities involved in the agricultural sector.

Establishment of the National Agricultural Commission.

3. ***(1)*** **The Central Government shall, by notification in the Official Gazette, establish a Commission to be known as the National Agricultural Commission for carrying out the purposes of this Act.**

(2) **The head office of the Commission shall be at New Delhi.**

(3) **The Commission may, in consultation with the Central Government, establish offices at any other place in the country, as it may deem fit, for carrying out the purposes of this Act.**

(4) **The Commission shall consist of,-**

(a) **a Chairperson;**

(b) **a Vice Chairperson; and**

(c) **at least ten Members, including at least one expert in agriculture/environmental science/rural development, and at least one representative each from prominent farmers' organisations in the country, agricultural universities, and relevant Central Government Departments;**

to be appointed by the President by warrant under his signature and seal.

(5) The Commission shall have the power to regulate its own procedure.

(6) **The Central Government shall provide such number of experts, officers and staff to the Commission, as maybe required for its efficient functioning.**

(7) **The salary and allowances payable to, the term of office, qualifications and experience and other terms and conditions of service of the Chairperson, Vice Chairperson, Members, experts, officers and staff of the Commission shall be such as may be prescribed.**

Objectives of the Commission.

4. The objectives of the Commission shall include, but not be limited to,-

(a) **conducting comprehensive studies and research on various aspects of agriculture, including best farming practices, technology adoption, market dynamics, and policy interventions;**

(b) identifying key challenges and opportunities in the agricultural sector and recommending strategies and policies for sustainable agricultural development;

(c) facilitating dialogue and collaboration amongst stakeholders to address issues related to land use, water management, climate resilience, and natural resource conservation;

(d) providing advice and assistance to the Central Government and State Governments on matters pertaining to agriculture, including formulation of policies, programs, and regulations as well as determination of the minimum support price of agricultural produce;

(e) **monitoring and evaluating the implementation of agricultural policies and programs of the Central and State Governments and recommending corrective measures as may be deemed necessary;**

(f) maintaining the price of agricultural produce at appropriate levels, monitor the import and export of agricultural produce and suggest measures for proper storage of agricultural produce, particularly perishable items;

(g) promoting innovation, technology transfer, and capacity building in agriculture to enhance productivity, income, and livelihoods of farmers; and

(h) performing other such functions as the Commission may deem necessary for the advancement of agriculture and welfare of farmers in the country.

Powers and functions of the Commission.

5. The Commission shall perform all or any of the following functions and exercise the following powers to achieve the objectives laid down under section 4 of this Act, namely:–

(a) to summon and examine witnesses, call for documents, and gather information necessary for fulfilling its objectives;

(b) **constitute sub-committees or expert groups to examine specific issues or undertake specialised tasks as required;**

(c) **publish reports, studies, and recommendations for the benefit of policymakers, stakeholders, and the public;**

(d) collaborate with national and international organisations, research institutions, and other relevant bodies to enhance its effectiveness and impact;

(e) seek grants, donations, or other forms of financial support from public or private sources to supplement its budgetary allocation,

in such form and manner as may be prescribed; and

(f) such other functions as may be assigned to it by the Central Government, from time to time.

Commission to have powers of Civil Court.

6. The Commission shall, while investigating any matter referred to it in under sub-section *(a)* of section 5, have all the powers of a Civil Court trying a suit and, in particular in respect of the following matters, namely,–

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commission for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

Central Government to provide funds.

7. The Central Government may, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the Commission for carrying out the purposes of this Act.

Annual Report.

8. The Commission shall prepare in such form and at such time in each calendar year, as may be prescribed, an annual report giving a full account of its activities findings, recommendations, and financial statements during the previous year and submit the same to the Central Government, which shall cause it to be laid before each House of Parliament.

Act to have overriding effect

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

Power to remove difficulties.

10. 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 make rules.

11. *(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 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

Agriculture serves as the primary source of livelihood for approximately 55 per cent of the population of India. It contributes substantially to the GDP of the country and is a cornerstone of rural economies. The decline in agriculture GDP growth signifies distress in the sector, necessitating proactive measures to reverse this trend.

2. The agriculture sector in India grapples with multifaceted challenges, including stagnant or falling agricultural prices, declining real incomes of farmers, rural unemployment and inadequate public investment. These challenges, if left unaddressed, can exacerbate rural distress and impede socio-economic development.

3. Small landholdings, outdated farming practices, water scarcity, soil degradation, inadequate infrastructure, market access constraints vulnerability to climate change and natural disasters are structural impediments hampering the sector's growth and resilience. Addressing these issues requires a holistic and integrated approach.

4. Therefore, National Agricultural Commission, as proposed to be established under this Bill, would ensure coherence and continuity in agricultural policies by providing expert guidance and recommendations across different government administrations. It would serve as a knowledge repository, facilitating evidence-based policymaking and fostering innovation in agricultural practices.

5. The voices of farmers and representation in policy formulation processes are crucial for designing interventions that address their specific needs and challenges effectively. The Commission can act as a platform for fostering dialogue between policymakers, agricultural experts, and grassroots stakeholders, thereby empowering farmers and enhancing their participation in decision-making.

6. By adopting a long-term perspective, the Commission can develop strategic plans and roadmaps for sustainable agricultural development, encompassing aspects such as technology adoption, infrastructure enhancement, market reforms, and risk management strategies. It would promote resilience, innovation, and competitiveness in the agriculture sector.

Hence, this Bill.

FAUZIA KHAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a National Agriculture Commission, appointment of the Chairperson, Vice Chairperson, members, experts, officers and staff therein and the salary and allowances payable to, and other terms and conditions of service thereof. Clause 4 stipulates the objectives of the Commission including conducting comprehensive studies and research on various aspects of agriculture, including best farming practices, technology adoption, market dynamics, and policy interventions and monitoring and evaluating the implementation of agricultural policies and programs and recommending corrective measures as may be deemed necessary. Clause 5 lays down the powers and functions of the Commission, including constituting sub-committees or expert groups to examine specific issues or undertake specialised tasks as required; and publishing reports, studies, and recommendations for the benefit of policymakers, stakeholders, and the public. Clause 8 provides that the Central Government shall grant funds to the Commission for carrying out the purposes of this Act. The Bill, if enacted, would involve both non-recurring and recurring expenditure from the Consolidated Fund of India. However,it is not possible to estimate the exact recurring and non-recurring expenditure at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 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 12 empowers the Central Government to make rules for carrying out the purposes of the Bill. As the orders and rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

XIV

Bill No. XLIX of 2024

A Bill to protect the right of the next of kin or authorized persons to receive the mortal remains of deceased individuals without undue delay and prevent harassment by clinical establishments on account of outstanding dues 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

Short title and commencement.

1. *(1)* This Act may be called the Release of Mortal Remains by Clinical Establishments Act, 2024.

(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) "applicant" means any person making an application for claiming the mortal remains of the deceased person under sub-section *(1)* of section 4;

(b) "clinical establishment" shall have the same meaning as assigned to it under clause (c) of section 2 of the Clinical Establishments (Registration and Regulation) Act, 2010; 23 of 2010

(c) "deceased person" means any person admitted to a clinical establishment for in-patient treatment due to an illness or admitted under casualty or emergency circumstances and passed away during treatment therein;

(d) "nodal officer" means a person appointed as such by the clinical establishment under sub-section *(1)* of section 3;

(e) "outstanding dues" means any pending dues or charges claimed by a clinical establishment for the provision of treatment or for costs incurred in respect of the deceased person or in relation to his treatment therein; and

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

CHAPTER II

DUTIES OF CLINICAL ESTABLISHMENTS

Appointment and functions of nodal officer.

3. *(1)* Every clinical establishment shall appoint a person from amongst its staff, possessing such qualifications, expertise and experience as may be prescribed, as a nodal officer for discharging the duties as assigned under this Act, within thirty days from its notification in the Official Gazette.

(2) The nodal officer shall be responsible for,-

(a) processing the application for handing over the mortal remains of the deceased person; and

(b) ensuring that the mortal remains of the deceased person are handed over in a proper and dignified manner to the applicant immediately after grant of consent,

in accordance with provisions of sub-section *(2)* of section 4 of this Act.

Procedure for claiming the mortal remains of a deceased person.

4. *(1)* Any person who is the next of kin of the deceased person or any other person authorized by law to receive the mortal remains of the deceased person, seeking to claim such mortal remains, shall submit an application to the nodal officer appointed for the said purpose under section 3 of this Act, in such form and manner as may be prescribed by the Central Government.

(2) The nodal officer shall on receipt of such application, process the same and grant the consent for handing over the mortal remains of the deceased person immediately:

Provided that in case of any delay in processing or rejection of the application made under sub-section *(1),* the nodal officer shall record the reasons for such delay or rejection, as the case may be, in writing and, provide the same to the applicant immediately.

Provided further that the nodal officer shall not reject any application made under sub-section *(1)*, solely on account of any outstanding dues

in the name of the deceased person, as claimed by the clinical establishment.

Duty to release the mortal remains of a deceased person.

5. Notwithstanding anything contained in section 4, no clinical establishment shall withhold the release of mortal remains of any deceased person solely on account of any outstanding dues in his name, as claimed by the clinical establishment.

CHAPTER III

OFFENCES AND PENALTIES

Punishment for failure to release the mortal remains of the deceased person solely on account of any outstanding dues.

6. Any clinical establishment that fails to release the mortal remains of a deceased person to the applicant in contravention of the provisions of this Act shall be punishable for a first offence with imprisonment which may extend to six months, or a fine which may extend to five lakh rupees, or both, and for any second or subsequent offence with imprisonment which may extend to one year, or a fine which may extend to twenty-five lakh rupees, or both.

Punishment for refusal to grant consent for release of the mortal remains of the deceased person solely on account of any outstanding dues.

7. Where, on a complaint made by the applicant, it is found after due process that an application made under sub-section *(1)* of section 4 was rejected by the nodal officer solely on account of any outstanding dues in the name of the deceased person as claimed by the clinical establishment, such nodal officer shall be punished for a first offence with imprisonment which may extend to six months, or a fine which may extend to five lakh rupees, or both, and for any second or subsequent offence with imprisonment which may extend to one year, or a fine which may extend to twenty-five lakh rupees, or both.

Cognizance of Offences.

8. Any offence committed under this Act shall be cognizable and triable by a court not inferior to that of a Metropolitan Magistrate or the Court of a Judicial Magistrate of the First Class, exercising jurisdiction under the Bharatiya Nagarik Suraksha Sanhita, 2023 in the area where the applicant resides or where the clinical establishment is situated.

46 of 2023

Offences by companies.

9. (1) Where an offence under this Act 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 contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing 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 was 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 purposes of this section—

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

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

CHAPTER IV

MISCELLANEOUS

Right of clinical establishments to recover outstanding dues.

10. Nothing contained in this Act shall affect the right of any clinical establishment, whether statutory or contractual, to recover any outstanding dues from any person.

Act not in derogation of any other law.

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

Power to remove difficulties.

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

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

(2) Every order made under this section shall be laid before each House of Parliament in such manner as may be prescribed.

Power to make rules.

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

(2) Every rule made under this Act shall be laid 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; however, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The primary objective of the Release of Mortal Remains by Clinical Establishments Bill, 2024 is to ensure the dignified release of mortal remains from clinical establishments to the next of kin or authorized persons without undue delay or harassment solely on account of outstanding dues in the name of the deceased person. This legislation aims to address the grievances of families, who face difficulties in claiming the bodies of their loved ones due to pending hospital bills. It aims to uphold the dignity of the deceased and provide relief to grieving families by ensuring a clear and efficient process for the release of mortal remains without any undue delay. The Bill also seeks to establish accountability and streamline procedures within clinical establishments by making it imperative for the clinical establishments to appoint a nodal officer to process the application for release of mortal remains and ensure the handing over of the remains to the family of the deceased. The clinical establishments are also duty bound to not withhold the remains of a person solely on account of outstanding dues claimed by them. This Bill also provides for strict penalties for non-compliance of its provisions.

Hence, this Bill.

KARTIKEYA SHARMA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 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 13 of the Bill empowers the Central Government to make rules for carrying out in the purposes of the Bill.

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

XV

Bill No. LIII of 2024

A Bill to amend the Disaster Management Act, 2005.

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 Disaster Management (Amendment) Act, 2024.

(2) It shall come into force with immediate effect.

General.

53 of 2005.

2. In the Disaster Management Act, 2005, (hereinafter referred to as the principal Act),

(a) for the words, “National Disaster Management Authority" wherever they

occur, the words “National Disaster Management Council" shall be substituted; and

(b) for the words, "National Authority" wherever they occur, the words "National Council" shall be substituted.

Amendment of section 2.

3. In section 2 of the principal Act, for clause (*s*), the following clause shall be substituted, namely, -

“(s) “State Government” means the Department of Government of the State or Union territory having Legislative Assembly, having administrative control of disaster management and includes Administrator of the Union territory appointed by the President under article 239 of the Constitution;”.

Substitution of section 3.

4. For section 3 of the principal Act, the following shall be substituted, namely, -

Establishment of National Disaster Management Council.

“**3.** *(1)* There shall be established for the purposes of this Act, an authority to be known as the National Disaster Management Council.

(2) The National Disaster Management Council shall consist of the following members:

(a) the Prime Minister of India, or any Minister of the Central Government nominated by the Prime Minister to represent the Central Government, who shall be the Chairperson, *ex-officio;* and

(b) the Minister in-charge of disaster management or any other Minister nominated by each State Government, who shall be the Member, *ex officio.*

(3) The Cabinet Secretary of the Central Government shall be the *ex-officio* Secretary of the National Council but shall not have a vote.

(4) All decisions taken by the National Council shall be determined by a simple majority of fifty-one per cent. of votes of the members present and voting.

(5) For the purpose of sub-section *(4)* of section 3, the value of votes which each member of the National Council is entitled to cast shall be determined in the following manner: -

(a) the Prime Minister or the Minister representing the Central Government, shall have one vote equivalent to the value of fifteen per cent. of the total votes available in the National Council; and

(b) every Member representing a State Government, shall have one vote and the value of such vote shall be calculated in proportion to the number of seats held by the respective State Government in the Council of States among the remaining eighty-five per cent. of votes available in the National Council.

Illustration

If a State or Union territory has ten per cent. of the total seats of the Council of States, then the vote of that State or Union Territory, as the case may be, in the National Council shall be worth eight and a half per cent. of the total vote of the National Council.

(6) Any State Government which wishes to replace its Member shall be entitled to do so at any point of time.

5. After section 3 of the principal Act, the following new section shall be inserted, namely: - Insertion of new section 3A.

"**3A.** *(1)* Any relief, rehabilitation, mitigation, restoration or fund requested by any State Government from the National Disaster Response Fund or National Disaster Mitigation Fund shall be dealt with by the National Council within thirty days from the date of request. Time period to consider relief request.

(2) The National Council shall consider reports of the State Authority prior to any decision on relief to be given to the States.

(3) The decision to grant any fund to a State Government, as requested by them or otherwise deemed appropriate, shall be based on objective criteria such as but not limited to –

(a) the nature of disaster and the level of impact on the State or Union territory and its people;

(b) the financial position of the State or Union territory to meet the impact of the disaster;

(c) the need for funds to restore normalcy and resettle the people affected by the disaster; and

(d) any other objective reasons as may be decided by the National Council.

6. For section 4 of the principal Act, the following shall be substituted, namely: - Substitution of section 4.

"4. *(1)* The National Council shall meet at least twice in a year, ordinarily at New Delhi, or at any other place chosen by the Council. Meetings of National Council.

(2) The Prime Minister of India or the Minister representing the Central Government shall chair all meetings of the National Council.

(3) In the absence of the Prime Minister or the Minister representing the Central Government, the remaining Members shall elect any other Member as a pro-term Chairperson for that meeting alone.".

7. In section 6 of the principal Act, in sub-section *(2),* after clause *(e),* the following shall be inserted, namely, - Amendment of section 6.

"(ea) lay down directions and guidelines to be followed by the National Executive Committee in applying the National Disaster Response Fund for meeting the expenses for emergency response, relief and rehabilitation;".

8. In section 7 of the principal Act, for sub-section *(1),* the following shall be substituted, namely, - Amendment of section 7.

"(*1)* The National Council may constitute an advisory committee consisting of experts in the field of disaster management and having practical experience of disaster management at the national, State or district level, from time to time to aid in its decisions and oversee mitigation works including the transfer of funds.

9. In section 10 of the principal Act, after sub-section (2), , the following shall be inserted, namely, – Amendment of section 10.

"(3) The National Executive Committee shall be bound by any direction or order issued by the National Council".

10. In section 46 of the principal Act, for sub-section *(2),* the following shall be substituted, namely: -

"(2) The National Disaster Response Fund shall be made available to the National Executive Committee to be applied towards meeting the expenses for emergency response, relief and rehabilitation in accordance with the directions and guidelines laid down by National Council.".

STATEMENT OF OBJECTS AND REASONS

The primary objective of the present amendment is to amend the Disaster Management Act, 2005, in order to substitute the National Disaster Management Authority (NDMA) which comprises only of the Prime Minister and Members appointed by the Prime Minister with a broader and more inclusive National Disaster Management Council (NDMC) with representatives of all States.

The creation of the NDMA was to enable the Union to aid the States when disaster strikes. The Union has a primary role in protecting the life and property of the citizens of India. The Union as the *parens patriae* come to the aid of the people who are suffering due to a natural disaster. The Union's legal obligation to come to the aid of the States providing relief from natural disasters are reinforced under the provisions of the Disaster Management Act, 2005. The obligations of the Union are to be discharged by it impartially and without political bias. Therefore, it is imperative that the apex decision making body under the Disaster Management Act, 2005 comprise of State representatives as well. This would only strengthen the constitutional guarantee of co-operative federalism. All States can participate in the deliberations of the NDMC and the process of releasing funds would become transparent and objective when all stakeholders are heard. Currently, the NDMA follows a one-size-fits-all approach, whereas with the States part of the newly constituted NDMC, the unique requirements of each State would be brought to the fore and considered while making decisions.

This amendment aims to ensure that there is a structured, transparent, and equitable mechanism for the allocation and utilisation of funds dedicated to disaster management, thereby ensuring that States severely affected by disasters are not left underfunded or neglected. The NDMC would prioritise funding based on the severity of disaster impact and the urgent needs of affected States.

The new amendment will ensure the equitable and efficient allocation of resources, prioritizing support for the States with the greatest needs. This approach will enhance national resilience and preparedness in the face of disasters.

The Bill seeks to achieve the above-mentioned objectives.

P. WILSON

XVI

Bill No. LXX of 2024

A Bill to provide for proceedings of all Courts, Tribunals and Commissions to be held virtually in order to facilitate efficient and timely judicial proceedings, mitigate delays, reduce costs and increase convenience for all parties involved 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: —

Short title and commencement.

1. *(1)* This Act may be called the Virtual Court Proceedings Act, 2024.

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

Definitions.

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

(a) "Commissions" includes all Commissions established by the Acts of the Parliament;

(b) "Courts" means the Supreme Court of India and High Courts of the States and includes a physical Court and a virtual Court;

(c) "live link" means and includes a live television link, audio-video electronic means or other arrangements provided by the Courts or Tribunals or Commissions, to the participants for participating in the virtual court proceedings;

(d) "participants" means and includes

(i) "advocates" and "senior advocates" defined under clause (a), sub-section *(1)* of section 2 and sub-section *(2)* of section 16, respectively of the Advocates Act, 1961, as well as government pleaders/advocates and officers of the department of prosecution,

(ii) parties-in-person to the proceedings,

(iii) other parties to the proceedings,

(iv) litigants, officers connected to the proceedings,

(v) witnesses, and

(vi) any person who is to be examined, or in whose presence certain proceedings are to be recorded or conducted or who is required to make submissions or who intends to participate in the proceedings on his or her own or on behalf of a party to the proceeding, third party with authority or permission of the Courts or Tribunals or Commissions, as the case may be;

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

(f) "Tribunals" includes all Tribunals and Appellate Tribunals established by the Acts of the Parliament;

*(g) "*virtual court proceedings" means a proceeding where participants are not physically present in the Courts or Tribunals or Commissions, as the case may be, but attend and participate through electronic mode which may include video conferencing accessed through any electronic device, by accessing a live link provided by the Courts, Tribunals and Commissions.

Virtual court proceedings.

3. *(1)* The proceedings of all Courts, Tribunals and Commissions shall be held, virtually in electronic mode, by use of electronic communication or use of audio-video electronic means such as video conferencing, apart from the regular physical hearings and such hearings shall be called as virtual court proceedings.

(2) The proceedings mentioned in sub-section *(1)* shall include: —

(a) all trials, inquires and proceedings including issuance of notice or summons, recording of evidence, service and execution of summons and warrant;

(b) examination of parties and witnesses;

(c) pronouncement of orders, judgments, awards; and

(d) all appellate proceedings or any other proceedings as deemed appropriate by the Courts, Tribunals, or Commissions, as the case may be.

(3) The procedure and manner of conduct of the proceedings as given under sub-section *(2)* including the determination or apportioning of costs involved in virtual court proceedings and the requisite facilities and arrangements to be made for smooth conduct of the virtual court proceedings in each Court, Tribunal and Commission shall be governed by the rules and regulations framed by the Courts and the Central Government in the case of the Tribunals and Commissions.

(4) The Courts, Tribunals and Commissions, as the case may be, in order to enable access to virtual court proceedings, shall provide a live link to the participants *via* email address/mobile number furnished by the participants, or in any other manner, as may be prescribed.

(5) The Courts, Tribunals and Commissions, as the case may be, shall have the power to regulate appearances of participants during virtual court proceedings including removal or debarring any participant from further participation in such proceedings on any of the following grounds: —

(a) appearing from a vehicle;

(b) appearing with a background not dignified for participation in virtual court proceedings;

(c) engaging in any activity other than the normal course of business;

(d) engaging in any act which may be considered inappropriate while participating in virtual court proceedings;

(e) occurrence of a technical glitch, either on the part of the participant or on the part of the Courts, Tribunals, or Commissions, as the case may be, which disables conduct of virtual court proceedings; or

(*f*) the participant is not authorized by the Court, Tribunal or Commission for participating in the virtual court proceedings; or

(*g*) any other ground, as may be prescribed, through rules, regulations and guidelines by the Court, Tribunal or Commission, as the case may be.

(6) There shall be no unauthorized recording of the proceedings by any of the participants or by any other person or entity.

(7) The Courts, Tribunals and Commissions may from time-to-time issue directions or guidelines governing the access to and participation in virtual

court proceedings including online etiquette and publish the same on their notice boards and websites.

(8) Subject to sub-sections *(4)* and *(5),* the Courts, Tribunals, or Commissions, as the case may be, shall allow participants to appear in virtual court proceedings, upon a request made by a participant in such form and manner as may be prescribed.

(9) **Subject to maintaining independence, impartiality and credibility of judicial proceedings and subject to such rules, regulations, directions or guidelines as the Courts or Central Government may issue with respect to virtual court proceedings, the Courts, Tribunals and Commissions may adopt such technological advances as may become available from time to time, for improving the quality and efficiency of the virtual court proceedings.**

Facilities to be provided.

4. All Courts, Tribunals and Commissions shall provide the following facilities: —

(a) e-filing of pleadings and documents as required;

(b) e-verification of pleadings and documents as required; and

(c) virtual certified copies of the orders and judgements as required.

Conduct of proceedings.

5. *(1)* All virtual court proceedings conducted by the Courts, Tribunals, or Commissions shall be judicial proceedings and all the courtesies and protocols applicable to a physical Court shall apply to such proceedings.

(2) All relevant statutory provisions applicable to judicial proceedings including provisions of the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, the Bharatiya Sakshya Adhiniyam, 2023, the Contempt of Courts Act, 1971, and the Information Technology Act, 2000, shall apply to virtual court proceedings.

45 of 2023
46 of 2023
47 of 2023
70 of 1971
21 of 2000.

Power to remove difficulties.

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

(2) Every order made under sub-section *(1)* shall be laid, as soon as may be after it is made, before each House of Parliament.

Provisions of the Act to have an overriding effect.

7. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

Power of Courts to make rules.

8. Notwithstanding anything contained in this Act, the Courts shall have the power to make rules, regulations, directions or orders, as may be required, for carrying out the purposes of this Act.

Power of Central Government to make rules.

9. *(1)* Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, make rules with respect to the Tribunals and Commissions for carrying out the purposes of this Act.

(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

The advent of COVID-19 pandemic had forced us to conduct court proceedings virtually. Virtual courts have enabled participation from remote areas irrespective of geographical or economic constraints, eliminating the need for individuals to bear significant financial burdens associated with physically attending court sessions.

However, just like the COVID-19 times are behind us, the virtual courts are slowly becoming a thing of the past in some Tribunals and it is seen that even though Government had invested a huge amount of public money in the infrastructure for conducting and promoting virtual courts, this facility is not being utilized even though there is demand for the same.

The concept of access to justice has been etched in our Constitution. Virtual court can enable dispensation of justice to all citizens by mitigating delays, reducing costs and increasing convenience for all parties. Access to virtual court hearings not only help in reduced litigation costs, but also make complex and time-consuming judicial procedures accessible and convenient to the lay man. It also prevents a litigant belonging to other parts of the country from bearing the cost of travel, lodging and extra fees of the lawyer since most of the Commissions, Tribunals and the Hon'ble Supreme Court are situated at Delhi. Each time a case is adjourned for want of a lawyer; it is the litigant who bears the expense. It is also pertinent to note that a common reason for adjournments at the Supreme Court of India, High Courts and appellate tribunals is that the counsels from various parts of the country cannot make it to the hearing due to various reasons. Therefore, mandatory virtual court proceedings would certainly aid in the effective delivery of justice to all sections of citizens. Furthermore, virtual courts proceedings could also make the legal process more streamlined by reducing paperwork and automating administrative tasks.

Therefore, the present Bill proposes to mandate virtual court hearings and achieve the above objectives.

Hence this Bill.

P. WILSON.

FINANCIAL MEMORANDUM

Sub-clause (8) of Clause 3 of the Bill provides that the Courts, Tribunals and Commissions may, subject to the rules, regulations, directions or guidelines as the Courts or Central Government may issue with respect to virtual court proceedings, adopt such technological advances as may become available from time to time, for improving the quality and efficiency of the virtual court proceedings.

The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. However, at this stage, it is not possible to quantify the exact amount of recurring and non-recurring expenditure likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill provides that the Central Government may, make such order, as necessary for removing any difficulty to give effect to the provisions of this Bill. Clause 8 empowers the Courts to make rules, regulations, directions or orders, as may be required, for carrying out the purposes of this Bill and Clause 9 empowers the Central Government to make rules with respect to the Tribunals and Commissions to carry out the provisions of this Bill.

As the orders, rules, regulations, directions etc. will relate to matters of details only, the delegation of legislative power is of a normal character.

XVII

Bill No. LXXXV 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 the Official Gazette, appoint.

Amendment of article 124.

2. In article 124 of the Constitution, after clause (2A), the following new clauses shall be inserted, *namely* :—

"(2B) Notwithstanding anything in this Constitution, the appointment of Judges to the Supreme Court shall be made by giving due representation to members of the Scheduled Castes,

Scheduled Tribes, Other Backward Classes, religious minorities and women, in proportion to their population in the country:

Provided that the provisions of this clause shall not apply to such categories which are already represented in the total strength of Judges of the Supreme Court in proportion to their population in the country.

(2C) Subject to the provisions of clause (2B), the Central Government shall frame a Memorandum of Procedure for appointment of Judges of the Supreme Court in consultation with the Chief Justice of India, setting out the timelines and procedure including identifying, assessing, recommending, and appointing suitable candidates as Judges of the Supreme Court.

(2D) If the Chief Justice or Judge of any High Court is being considered for appointment as a Judge of the Supreme Court, the Central Government shall consult the Government of that State before making such appointment.

(2E) The Central Government shall either return or notify any recommendation of the collegium of the Supreme Court for appointment of Judges of the Supreme Court within sixty days of receipt of the recommendation.

Provided that if any recommendation is returned by the Central Government and the same is re-iterated by the collegium of the Supreme Court, the Central Government shall notify the same within a period of thirty days of receipt of the reiteration.

Explanation— For the purpose of this clause, 'collegium of the Supreme Court' shall mean a Committee comprising of five senior-most Judges of the Supreme Court including the Chief Justice of India."

Amendment of article 217.

3. In article 217 of the Constitution, after clause (2), the following new clauses shall be inserted, *namely* :—

"(2A) Notwithstanding anything contained in this Constitution, the appointment of Judges to the High Court of a State shall be made by giving due representation to members of the Scheduled Castes, Scheduled Tribes, Other Backward Classes, religious minorities and women, in proportion to their population within that State:

Provided that the provisions of this clause shall not apply to such categories which are already represented in the total strength of Judges of a High Court in proportion to their population within that State.

(2B) In all cases of appointments to a High Court of a State, the Central Government, the collegium of the Supreme Court and the collegium of that High Court shall take into consideration the opinion of the Government of that State before making the appointment.

Explanation— For the purpose of this clause, 'State' includes all States and Union Territories that share a common High Court.

(2C) Subject to the provisions of clause (2A), the Central Government shall frame a Memorandum of Procedure for appointment of Judges of High Courts in consultation with all the State Governments, Governments of Union Territories, the Chief Justice of India and Chief Justices of all High Courts, setting out

the timelines and procedure including identifying, assessing, recommending, and appointing suitable candidates as Judges of High Courts.

(2D) The Central Government shall either return or notify any recommendation of the collegium of the Supreme Court for appointment of Judges of the High Court within sixty days of receipt of the recommendation.

Provided that if any recommendation is returned by the Central Government and the same is reiterated by the Supreme Court, the Central Government shall notify the same within a period of thirty days of receipt of the reiteration.

Explanation— For the purpose of article 217, 'collegium of Supreme Court' shall mean a Committee comprising the five senior most Judges of the Supreme Court including the Chief Justice of India and 'collegium of High Court' shall mean a Committee comprising the three senior most Judges of that High Court including the Chief Justice of that High Court."

Amendment of Article 224.

4. In article 224, after clause *(1)*, the following new clause shall be inserted, *namely* :—

"(1A) Notwithstanding anything contained in this Constitution, the appointment of additional Judges to the High Court of a State shall be made, by giving due representation to members of the Scheduled Castes, Scheduled Tribes, Other Backward Classes, religious minorities and women, in proportion to their population within that State:

Provided that the provisions of this clause shall not apply to such categories which are already represented in the total strength of Judges and additional Judges of a High Court in proportion to their population within that State."

STATEMENT OF OBJECTS AND REASONS

India is a diverse nation with a rich tapestry of cultures, communities, genders, and religions. The preamble of our Constitution envisions securing social justice for all. However, the current composition of the higher judiciary does not adequately reflect this diversity. The current trend in judicial appointments shows a dismal representation of socially marginalized groups and there is significant over-representation of certain sections. There is a diversity deficit in the appointment of Judges to Supreme Court and High Courts, leading to a situation of inequality.

A representative judiciary is pivotal for fostering public confidence in the judiciary's ability to make sound and responsive decisions. When the judiciary includes Judges from all sections of society, it instills greater confidence amongst the public, who feel that their lived realities and concerns are understood and addressed. This inclusivity is essential for the public to perceive the court system as impartial and accessible. Further, a diverse judiciary is imperative to enhance the quality of judicial decisions. Judges bring their personal experiences and perspectives to the bench, influencing how they interpret and apply the law.

Judges from varied backgrounds will draw from a wider range of experiences, resulting in more balanced and comprehensive judgments. A diverse judiciary is also less likely to violate the rights of underrepresented classes and more likely to prevent discrimination. The lack of Judges from historically oppressed and minority communities indicates systemic barriers that must be addressed. A judiciary that fails to reflect the social composition of the nation poses a serious constitutional challenge, undermining the public's confidence in the justice system.

Increasing diversity ensures that the judiciary protects the rights of all citizens and reflects the nation's pluralistic society. A constitutional mandate in this regard would ensure that the superior courts are never underrepresented. It is of utmost importance that equitable representation and fair play in the higher judiciary are secured through constitutional channels.

The Collegium of the Justice(s) of the Hon’ble Supreme Court and Hon’ble High Courts is an aspect of judicial appointments which is a closed-door phenomenon. Having a transparent procedure for judicial appointments would reflect a greater faith in the Constitution and the Judiciary. An established Memorandum of Procedure by the Central Government in consultation with the Chief Justice of India for appointment of Judges of the Supreme Court and in consultation with all the State Governments, Governments of Union Territories, the Chief Justice of India and Chief Justices of all State High Courts for appointment of Judges of High Courts, would ensure that there are no deviations in conventions and would also ensure that the judicial appointments are fair and transparent. Furthermore, to enhance transparency, the Collegium should also consider the opinion of their respective State Governments while recommending names for appointment as Judges of the High Courts to the Central Government. Despite judicial pronouncements on the appointment of Judges calling for a Memorandum of Procedure, no such memorandum has been finalized till date by the Central Government.

The opinions of the State Government and the Central Government have to be considered for which there is no mechanism in place at present. The Memorandum of Procedure is contemplated to have a timely action so that the appointment procedure shall not be delayed beyond a fixed time period.

Another important aspect is that the recommendations of the Supreme Court collegium for appointment of Judges to High Courts and Supreme Court are kept in cold storage without taking any decision. This has brought to a

grinding halt the process of appointment of Judges and the institutions suffer on account of unfilled vacancies and delay in filling up of vacancies.

Further, when the Judges of the Supreme Court and High Courts have the power of judicial review to test the policies and laws made or enacted by the lawfully and democratically elected State Governments, it is sequitur that the views and opinions of the concerned State Governments be heard before making such appointments. After all, the State and the Central Governments are equal and function in the spirit of co-operative federalism. A message should not be sent out to the Judges/ Chief Justices that only the views of the Central Government matter in the appointment of Judges, thereby cultivating a bias towards the Central Government, and proportionate disaffection towards the State Governments where an opposition party is in power. Therefore, the views of the Central Government alone are not sufficient in making judicial appointments.

Therefore, this Bill seeks to amend the Constitution of India to provide for social diversity in the appointment of Judges to the Supreme Court and High Courts, proportional to the population of Scheduled Castes, Scheduled Tribes, and Other Backward Classes and to bring transparency in judicial appointments in higher judiciary. Providing for reservation in judicial appointments, with an aim to promote social diversity, will definitely help in improving the quality of judicial decisions, enhancing public confidence, bringing transparency to judicial appointments and upholding the constitutional values of equality and inclusivity.

The Bill seeks to achieve the above objectives.

P. WILSON

XVIII

Bill No. LX 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 the Official Gazette, appoint.

Insertion of new article 21B.

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

Right to free legal aid.

"**21-B. The State shall ensure free legal aid to all citizens, who are in need of it, in such manner as the State may, by law, determine, and ensure that no citizen is denied the right by reason of economic, social, religious, educational or other grounds.**"

Substitution of article 39A.

3. In Part IV of the Constitution, for article 39A, the following new article shall be substituted, namely:—

Equal justice to all citizens.

"**39-A.** The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity and ensure that opportunities for securing justice are not denied to any citizen."

STATEMENT OF OBJECTS AND REASONS

The guarantee to free legal aid is a very important factor for ensuring equality and liberty of an individual. As a developing nation, it is important that all individuals in the nation get equal access to justice and no citizen is discriminated against on the basis of economic, social, religious, educational or other grounds such as physical disabilities.

Article 21 of the Constitution secures the Right to Life and Personal Liberty as a Fundamental Right. Several Court Judgements have emphasized that free legal services are an inalienable element of reasonable, fair and just procedure and that the right to free legal services is implicit in Article 21. Article 39-A as a Directive Principle of State Policy under Part IV of the Constitution provides that the State shall secure equal justice and free legal aid to all citizens. This has led courts to hold that the State is constitutionally bound to provide legal aid not only at the stage of trial but also when they are first produced before the Magistrate or remanded at any time. However, it is felt that despite these constitutional provisions, we will be able to ensure and secure equal justice without denial of any opportunity to all citizens of the country irrespective of their background and standing in society, only by making the right to free legal aid, an enforceable and justiciable right. A monitored and ensured mechanism by the State can ensure the achievement of the purpose.

The Bill, therefore, proposes to make the right to free legal aid as a fundamental right for every citizen of the country. The proposed legislation, hence, is required to ensure equality before law and equal justice to all which is essential for a fruitful life.

The Bill seeks to achieve this objective.

V. SIVADASAN

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for making the right to free legal aid a fundamental right. The Bill, therefore, if enacted, would involve expenditure of recurring nature from the Consolidated Fund of India. However, at this juncture, it is difficult to estimate the actual expenditure likely to be involved. No non-recurring expenditure is likely to be involved.

XIX

BILL NO. LXXI OF 2024

A Bill to provide for the right to free public health care to all citizens 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 Right to Free Public Health Care Act, 2024.

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

Definitions.

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

(a) "appropriate Government" means in the case of a State, the Government of that State, in the case of a Union territory having its own legislature, the Government of that Union territory, and in all other cases, the Central Government;

(b) "citizen" means any person living within the territory of India with Indian citizenship according to the laws in this regard for the time being in force;

(*c*) "free public health care" means all types of medical services including consultation, diagnosis and treatment of any medical condition as well as rehabilitative services, free of cost to all citizens in any hospital;

(d) "hospital" means any recognised institution providing healthcare facilities and services and includes—

(i) a hospital established, owned or controlled by the appropriate Government or a local authority;

(ii) an aided hospital receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;

(iii) a hospital belonging to a specified category; and

(iv) an unaided hospital not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority.

Explanation: For the purposes of this clause, "specified category" means category of hospitals specified in the Clinical Establishments (Registration and Regulation) Act, 2010. 23 of 2010.

(e) "local authority" means a Municipal Corporation or Municipal Council of Zila Parishad or Nagar Panchayat, by whatever name called, and includes such other authority or body having administrative control or empowered by, or under any law for the time being in force to function as a local authority in any city, town or village;

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

(g) "senior citizen" means any citizen above the age of sixty-five years.

Right to free public health care.

3. ***(1)*** **Every citizen shall have the right to free public health care.**

(2) **No citizen shall be denied free public health care on account of their lack of income or any other circumstances.**

Special provisions for senior citizens, differently-abled citizens and those affected by rare genetic conditions.

4. The appropriate Government shall, while ensuring universal access to free public health care to all citizens, take special measures to address the special needs of and provide special facilities to the senior citizens, differently-abled citizens and those who are affected by rare genetic conditions.

Universal access to free public health care.

5. The access to free public health care shall be designed by the appropriate Government in such a way that no citizen is left out of the ambit of its benefit due to income inequality, social inequity or information asymmetry.

Central Government to provide funds.

6. **(*1*) The Central Government shall have concurrent responsibility for providing funds for carrying out the purposes of this Act.**

(2) **The Central Government shall prepare the estimates of capital and recurring expenditure for the implementation of the provisions of the Act.**

(3) **The Central Government shall provide funds to the State Governments, as grants-in-aid of revenues, to meet such percentage of expenditure referred to in sub-section *(2)*, as it may determine, from time to time, in consultation with the State Governments, to enable them to carry out the purposes of this Act.**

(4) **The State Governments shall, after taking into consideration, the sums provided by the Central Government and its other resources, be responsible to provide funds for implementation of the provisions of this Act.**

Duties of the appropriate Government or local authority.

7. **It shall be the duty of the appropriate Government or local authority, as the case may be, to—**

(a) **ensure access to and availability of free public health care facilities and services to every citizen and especially to every senior citizen;**

(b) **ensure that no citizen is discriminated against and/or prevented from accessing free public health care on any grounds;**

(c) **notify or establish, where it is not so established, well-equipped hospitals, for the purpose of providing free public health care as guaranteed under this Act, within such area or limits of neighbourhood, as may be prescribed; and**

(d) **provide necessary infrastructure for the hospitals including building, equipment and well-trained staff conforming to the standards and norms, as may be prescribed.**

Act to supplement other laws.

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

Power to make rules.

9. *(1)* The appropriate Government may, by notification, make rules, for carrying out the provisions 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 the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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

STATEMENT OF OBJECTS AND REASONS

Health care is one of the most important requirements for achieving a complete and fulfilling life. A significant portion of the health expenditure in India is borne by the citizens directly from their out-of-pocket expenditure. Hence, there is an urgent need to address this situation.

Proper steps need to be taken urgently to ensure that the problem is addressed adequately.

Through this Bill, the Central Government shall take it up as its statutory social welfare responsibility to ensure right to free public healthcare to all citizens of India.

The Bill seeks to achieve this objective.

V. SIVADASAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill guarantees the right of free public health care to every citizen and provides that no citizen shall be denied the right on account of their lack of income or any other circumstances. Clause 4 provides that the appropriate Government shall take special measures to address the special needs of and provide special facilities to senior citizens, differently-abled citizens and those who are affected by rare genetic conditions.

Clause 6 of the Bill provides that the Central and State Governments shall have concurrent responsibility for providing funds for carrying out the purposes of the Bill and that the Central Government shall provide funds to the State Governments, to meet such percentage of expenditure, as may be determined, from time to time, in consultation with the State Governments, as grants-in-aid of revenues, to enable them to carry out the purposes of this Bill.

Clause 7 of the Bill lays down the duties of the appropriate Government or the local authority, as the case may be, to ensure access to or availability of free public health care facilities and services to all citizens, particularly senior citizens and that no one is discriminated against. It also stipulates that the appropriate Government shall notify or establish, well-equipped hospitals, within such area or limits of neighbourhood, as may be prescribed, where it is not already established and also provide necessary infrastructure for the hospitals including building, equipment and well-trained staff.

The Bill, therefore, if enacted will involve expenditure, both of recurring and non-recurring nature, from the Consolidated Fund of India. It is, however, not possible at this stage to estimate the exact expenditure likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 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.

XX

Bill No. LXXV of 2024

A Bill to provide for the constitution of a National Commission for Workers 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

Short title and commencement.

1. (*1*) This Act may be called the National Commission for Workers Act, 2024.

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

Definitions.

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

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

(b) "Chairperson" means Chairperson of the National Commission for Workers;

(c) "Commission" means the National Commission for Workers constituted under section 3;

(d) "member" means a Member of the Commission and includes the Member-Secretary;

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

(f) "worker" refers to all types of workers including permanent and contractual workers who work in organized or unorganized sectors, agriculture, industry or service sector.

CHAPTER II

THE NATIONAL COMMISSION FOR WORKERS

Constitution of the National Commission for Workers.

3. (*1*) The Central Government shall, by notification in the Official Gazette, constitute a body, to be known as the National Commission for Workers, to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Commission shall be at New Delhi.

(4) The Commission may, in consultation with the Central Government, establish office(s) at any other place in the country, as it may deem fit, for carrying out the purposes of this Act.

(5) The Commission shall consist of the following persons, namely—

(a) a Chairperson, committed to the cause of workers and dignity of labour, to be appointed by the Central Government, in such manner as may be prescribed;

(b) five members to be nominated by the five largest and recognized trade unions in the country, in such manner as may be prescribed;

(c) five members, one each to be nominated by the State Governments, in such manner and for such term as may be prescribed, on rotational basis from amongst all States, to ensure that all States get due representation:

Provided that the five States which get to nominate members for a given term shall be determined by draw of lot and the States who have been selected through previous draw(s) of lot will not be included in the next draw of lot; and

(d) one Member-Secretary, to be appointed by the Central Government, in such manner as may be prescribed, who shall be—

(i) an expert in the field of trade unionism, employment

and labour rights; or

(ii) an officer, who is a member of the All-India Services or the Central Civil Services or holds an equivalent civil post under the Central Government, with such experience, as may be prescribed.

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

4. (*1*) **The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and Members of the Commission shall be such as may be prescribed.**

(2) The Chairperson and members shall hold office for a term, not exceeding three years from the date on which they assume office.

Resignation and removal.

5. *(1)* Notwithstanding anything contained in sub-section *(2)* of section 4, the Chairperson or a member other than the Member-Secretary, appointed under *sub*-clause (ii) of clause *(d)* of sub-section *(5)* of section 3, may, by writing given under his hand to the Central Government, resign from his office at any time.

(2) The Central Government may, by order, remove from office, the Chairperson or any member other than the Member-Secretary, appointed under sub-clause (ii) of clause *(d)* of sub-section *(5)* of section 3, if the Chairperson, or as the case may be, such other member —

(a) has been adjudged an insolvent; or

(b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) becomes of unsound mind and stands so declared by a competent court; or

(d) refuses to act or has become physically or mentally incapable of acting in his official capacity; or

(e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(f) has, in the opinion of the Central Government, so abused his office as to render his continuance in office detrimental to the interest of office or the public interest:

Provided that no person shall be removed from office under this clause, unless that person has been given a reasonable opportunity of being heard in the matter.

(3) A vacancy caused under sub-sections *(1)* and *(2)* or otherwise shall be filled by fresh appointment or nomination, as the case may be:

Provided that the Chairperson or any other member appointed or nominated against any casual vacancy in the Commission shall hold office only for the remainder of the term of the Chairperson or member in whose place he has been appointed or nominated.

Vacancies, etc., not to invalidate the proceedings of the Commission.

6. No act or proceeding of the Commission shall be questioned or shall be invalidated merely by reason of:

(a) any vacancy in, or any defect in the constitution of, the Commission; or

(b) any defect in the appointment of a person as Chairperson

or member of the Commission; or

(c) any irregularity in the procedure of the Commission not affecting the merits of the case.

Officers and staff of the Commission

7. (*1*) The Central Government shall appoint such number of officers and staff to the Commission, as may be necessary for the efficient discharge of its functions under this Act, in such manner as may be prescribed.

***(2)* The method of recruitment, salaries and allowances payable to, and other terms and conditions of service of, the officers and staff, so appointed for the purpose of the Commission shall be such as may be prescribed.**

Members, officers and staff of the Commission to be public servants.

8. All members, officers and staff of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of sub-section *(2)* of section 28 of the Bharatiya Nyaya Sanhita, 2023. 45 of 2023.

Salaries, allowances and pensions to be paid out of grants.

9. The salaries and allowances payable to the Chairperson and members of the Commission and the administrative expenses, including salaries, allowances and pensions payable to the officers and staff referred to in section 7, shall be paid out of the grants referred to in sub-section (*1*) of section 16.

Committees of the Commission

10. *(1)* The Commission may appoint such Committees as may be necessary for dealing with such special issues as may be taken up by the Commission from time to time.

(2) The Commission shall have the power to co-opt as members of any Committee appointed under sub-section *(1)* such number of persons, who are not members of the Commission, as it may think fit, and the persons so co-opted shall have the right to attend the meetings of the Committee and take part in its proceedings, but shall not have the right to vote.

***(3)* The persons so co-opted shall be entitled to receive such allowances for attending the meetings of the Committee, as may be prescribed.**

Meetings and Procedure of the Commission.

11. *(1)* The Commission or a Committee thereof shall meet, as and when necessary, and shall meet at such time and place, as the Chairperson may think fit.

(2) The Chairperson shall preside over the meetings of theCommittee, and without prejudice to any provision of this Act, exercise and discharge such other powers and functions of the Commission, respectively, as may be prescribed.

(3) In the absence of the Chairperson from a meeting, the Commission may elect any member who is present to preside over such meeting.

(4) The Commission shall regulate its own procedure and the procedure of the Committees thereof.

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

CHAPTER III

FUNCTIONS OF THE COMMISSION

Functions of the Commission.

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

(a) actively work towards ensuring dignity, justice and living wages to the workers;

(b) investigate and examine all matters relating to the safeguards provided for workers under the Constitution and other laws related to workers' welfare for the time being in force;

(c) prepare and present to the Central Government, annually in such form and manner and also at such other times as the Commission may deem fit, reports on the working of the safeguards referred to in clause *(b)* and containing therein recommendations to the Centre and the States, as the case may be, for the effective implementation of those safeguards for improving the conditions of workers;

(d) review, from time to time, the existing provisions of the Constitution and other laws affecting workers and recommend amendments thereto pertaining to remedial legislative measures to meet any lacunae, inadequacies or shortcomings in the Constitution and such legislations;

(e) take up any cases of violation of the provisions of the Constitution and of other laws relating to workers, either *suo moto* or brought to its notice, with the appropriate authorities for necessary action;

(f) look into complaints received and take *suo moto* notice of matters relating to—

(i) deprivation of workers' rights;

(ii) non-implementation of laws enacted to provide protection to workers and also to achieve the objective of equality and development; and

(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to workers, and take up the issues arising out of such matters with the appropriate authorities for necessary action;

(g) evaluate the progress of the development of workers under the Centre and the States;

(h) **fund litigation involving issues affecting a large body of workers;**

(i) prepare and present periodical reports to the Central Government on any matter pertaining to workers and in particular various difficulties under which workers toil; and

(j) any other matter related to workers, which may be referred to it by the Central Government.

Commission to have powers of a Civil Court.

13. The Commission shall, while investigating any matter referred to in clause *(b)* or clause *(f)* of section 12, have all the powers of a civil court trying a suit and, in particular, in respect of the following

matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

Appropriate Government to consult the Commission.

14. The appropriate Government shall consult the Commission on all major policy matters affecting workers.

Central Government to lay Reports.

15. *(1)* The Central Government shall cause all the reports referred to in clause *(c)* of section 12, to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Centre and the reasons for the non-acceptance, if any, of any such recommendation(s).

(2) Where any such report or any part thereof relates to any matter with which any State Government is concerned, the Commission shall forward a copy of such report or part thereof to such State Government, who shall cause it to be laid before each House of the State Legislature , where it consists of two Houses, or where such Legislature consists of one House, before that House, along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any such recommendation(s).

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

16. (*1*) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as it may consider necessary for carrying out the purposes of this Act.

(*2*) The Commission may spend such sums, as it thinks fit, for performing the functions assigned to it under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (*1*).

Accounts and audit.

17. (*1*) The Commission shall, in consultation with the Comptroller and Auditor-General of India, maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner and at such time of each financial year, as may be prescribed.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of

Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission.

Annual report.

18. The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

Annual report and audit report to be laid before Parliament.

19. The Central Government shall cause the annual report together with the audit report, to be laid, as soon as may be after the reports are received, before each House of Parliament.

CHAPTER V

MISCELLANEOUS

Power to remove difficulties.

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

(2) Every order made under this section shall be laid, as soon as may be after it is made, 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 and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

Power to make rules and regulations.

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

(2) The Commission may, with the approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purposes of implementing the provisions of this Act.

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

STATEMENT OF OBJECTS AND REASONS

India has one of the largest workforce in the world and the progress of the country depends on their welfare and wellbeing. There are several instances in which the workers of the country are subjected to inhuman exploitation. The recent incident of the sad demise of a young chartered accountant of a leading accounting firm due to over work, drudgery and work-related stress has revealed that even white-collar jobs are not free from exploitation. The workers in the public sector too are facing increasing mental stress. The agricultural and unorganized workers are also suffering.

There is a need to ensure dignity and justice to the workers. The workers, who are the real creators of wealth, should be able to live a life of dignity and justice. The worker should emerge as a visible category in the social and political discourse so that their issues are addressed in the political process.

A National Commission is required for the cause of the workers and to ensure to them dignity, justice and wages commensurate to their labour and also for looking into the complaints and violation of labour rights. The Commission will also help to give more attention to the workers' right in the public sphere and policy making.

The Bill seeks to achieve these objectives.

V. SIVADASAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of the National Commission for Workers and for the appointment of the Chairperson and other members thereof. Clause 4 *inter alia* provides for the salaries and other allowances payable to, and other conditions of service of, the Chairperson and other members of the Commission. Clause 7 provides for the appointment of officers and staff of the Commission and the salaries and allowances payable to them and Clause 9 stipulates that the salaries and allowances of the Chairperson, members, officers and staff of the Commission, the pensions of officers and staff of the Commission and its administrative expenses shall be met from the grants provided by the Central Government. Clause 10 (3) of the Bill provides that the persons co-opted as members of any Committee appointed by the Commission shall be entitled to receive such allowances for attending the meetings of the Committee, as may be prescribed. Sub-clause *(h)* of clause 12 lays down fund litigation involving issues affecting a large body of workers as one of the functions of the Commission. Clause 16 provides that the Central Government shall make grants of such sums of money to the Commission, as it may consider necessary, to enable it to carry out the purposes of the Bill.

The Bill, therefore, if enacted will involve expenditure, both of recurring and non-recurring nature, from the Consolidated Fund of India. However, it is difficult to estimate the exact expenditure likely to be involved at this juncture.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 20 of the Bill empowers the Central Government make such provisions through an order for removing any difficulty that might arise in giving effect to the provisions of the Bill. Clause 22 of the Bill empowers the Central Government to make rules and the National Commission for Workers, with the approval of the Central Government, to make regulations, for carrying out the purposes of the Bill.

As the matters in respect of which rules or regulations or orders may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

XXI

Bill No. LV of 2024

A Bill to amend the Protection of Women from Domestic Violence Act, 2005.

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 Protection of Women from Domestic Violence (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 2.

43 of 2005.

2. In the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the principal Act), in section 2, —

(i) for clause *(q)*, the following shall be substituted, —

"(q) "respondent" means any adult person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against the relatives including female relatives of the husband or the male partner;";

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

"(ta) "vocational training facility" means such bodies that are recognized by the National Council for Vocational Education and Training to award certification for a qualification or a skill".

Insertion of new section 7A.

3. In the principal Act, after section 7, the following new section shall be inserted, namely: —

Duties of Vocational Training Facilities.

"7A. If an aggrieved person or, on her behalf a Protection Officer or a service provider, requests the person in charge of a recognized vocational training facility to provide any suitable skill training to her, such person in charge of the vocational training facility shall provide such skill training to the aggrieved person in the vocational training facility.

Amendment of section 9.

4. In the principal Act, in section 9, in sub-section *(1)*,: —

(i) after clause *(d),* the following new clause shall be inserted, namely,:-

"*(da)* to ensure that the aggrieved person is provided information about and access to all such schemes of the Central Government and State Governments which benefit victims of domestic violence;

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

"*(e)* to maintain a list of all service providers providing legal aid or counselling, shelter homes, medical facilities, and vocational training facilities in a local area within the jurisdiction of the Magistrate;" and

(iii) after clause *(h),* the following new clause shall be inserted, namely,: —

"(ha) to get the aggrieved person registered in a vocational training facility, if the aggrieved person is financially dependent and so requires and forward report of having registered the aggrieved person in a vocational training facility to the police station and the Magistrate having jurisdiction in the area where the vocational training facility is situated;".

Amendment of section 10.

5. In the principal Act, in section 10, in sub-section *(2)*, after clause *(c),* the following new clause shall be inserted namely: —

"*(d)* ensure that the aggrieved person is provided skill training in a vocational training institute if she so requires and forward a report of having registered the aggrieved person in a vocational training facility to the police station within the local limits of which domestic violence took place.".

Amendment of section 11.

6. In the principal Act, in section 11: —

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

"*(c)* effective co-ordination between the services provided by the concerned Ministries and Departments dealing with law, home affairs including law and order, health, skill development and entrepreneurship, to address the issues of domestic violence and comprehensive rehabilitation of the victims, is established and periodical review of the same is conducted;" and

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

"*(e)* all citizens are sensitized on the provisions of this Act and that age-

appropriate content on gender diversity and equality is integrated into school curriculums.”.

STATEMENT OF OBJECTS AND REASONS

Domestic violence transcends demographic boundaries and continues to violate basic human rights. Rooted in centuries of patriarchy, it reflects deep-seated societal norms where male dominance and female subjugation are normalized. Women, often socialized to accept and rationalize such violence, face systemic oppression reinforced by traditional beliefs and the concept of male ownership over women's bodies, labor, and reproductive rights further entrenches this dominance.

In India, the interplay of patriarchy, cultural norms, and negative masculine constructs perpetuates domestic violence. Despite comprehensive legislation against this crime, it has been increasing annually. According to the National Commission for Women data, in 2019, there were 2,960 recorded complaints of domestic violence. This number alarmingly rose by approximately 79.2 per cent. in 2020 during the lockdown. In 2021, the complaints increased by another 25.1 per cent. By 2022, the number marked a 5.1 per cent. increase from the previous year. Although there is a decline of 9.5 per cent. cases reported by NCW in 2023, the number is concerningly high.

The Protection of Women from Domestic Violence Act was passed in 2005 to offer effective protection of women's constitutional rights against familial violence. However, the legislation has often fallen short in purpose due to various loopholes. A significant shortcoming is its lack of emphasis on prevention as the Act does not sufficiently tackle its root cause deep-seated patriarchy. As a corrective measure to the Act, this Bill aims to strike at the root cause by prescribing the inclusion of gender sensitization in school curricula within the duties of the Government.

Another glaring factor overlooked by the 2005 Act, which this Bill seeks to address, is the lack of punishment for abusive female family members. In many cultural contexts, mothers-in-law, sisters-in-law, and other female relatives may participate in or perpetrate abuse. However, the current domestic violence law holds only adult male persons responsible, designating them as respondents. This is a significant flaw and violates the principles of Article 14 of the Constitution. In consonance with the landmark judgment of *Hiral P. Harsora vs. Kusum Narottamdas Harsora* (2016) 10 SCC 165, this Bill will strike down the phrase “any adult male person” to extend the purview of the 2005 Act to female relatives of the male partner. This will entitle aggrieved persons to the freedom to bring cases against female family members who have committed any form of violence.

Nevertheless, as important as women’s protection against domestic violence, their comprehensive rehabilitation is critical as well. In the absence of financial safety nets, women find it difficult to escape abusive relationships. The fear of destitution and the absence of safety cushions can lead to even underreporting of domestic violence cases. Although lack of financial independence is a factor for women from all strata to break free from the cycle of abuse, those from low-income backgrounds need special attention as they particularly lack social protection, educational qualifications, or access to decent work. Therefore, there is an urgent need for skill development to empower aggrieved women and break the cycle of dependency and silence. While there are many schemes aimed at empowering women to be financially independent, such as Pradhan Mantri Kaushal Vikas Yojana (PMKVY), Support to Training and Employment Programme for Women (STEP), and Sakhi - One-Stop Centre scheme, including a provision in the existing 2005

Act to connect these victims of domestic violence with such initiatives would strengthen the implementation of these schemes and provide a more robust support system for affected women.

Hence, the Bill.

SANDOSH KUMAR P.

XXII

Bill No. LXV of 2024

A Bill to amend the Digital Personal Data Protection Act, 2023.

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 Digital Personal Data Protection (Amendment) Act, 2024. Short title and commencement.

(2) It shall come into force at once.

2. In the Digital Personal Data Protection Act, 2023 (hereinafter referred to as the principal Act), in section 2– Amendment of section 2.

(i) for clause *(i),* the following shall be substituted, namely:-

'*(i)* "Data Fiduciary" means any person including a State, a company, a non-governmental organisation, juristic entity or any individual, who alone or in conjunction with other persons determines the purpose and means of collection, storage, disclosure, sharing or processing of personal data;';

(ii) for clause *(k),* the following shall be substituted, namely:-

'(*k*) "Data Processor" means any person including a State, a company, a non-governmental organisation, juristic entity or any individual, who processes personal data on behalf of a Data Fiduciary;';

(iii) after clause *(x),* the following new clause shall be inserted, namely:-

'(*xa*) "sensitive personal data" means such personal data, which may reveal, be related to, or constitute financial data, health data, official identifier, sex life, sexual orientation, biometric data, genetic data, transgender status, intersex status, caste or tribe, religious or political belief or affiliation, or any other data which may be categorised as such, from time to time, by the Central Government.

Explanation— For the purposes of this clause, the expressions,-

(a) "financial data" means personal data used to identify an account opened by, or card or payment instrument issued by a financial institution to a data principal or regarding the relationship between a financial institution and a data principal including financial status and credit history;

(b) "health data" means personal data related to the past, present or future physical or mental health state of the data principal, data collected in the course of registration for or provision of health services and any data associated with the data principal for the provision of specified health services;

(c) "official identifier" means any number, code or other identifier, assigned to a data principal under a law made by Parliament or any State Legislature which may be used for the purpose of verifying the identity of such data principal;

(d) "biometric data" means facial images, fingerprints, iris scans or any other similar personal data resulting from measurements or technical processing operations carried out on physical, physiological or behavioural characteristics of a data principal, which allow or confirm the unique identification of that natural person;

(e) "genetic data" means personal data relating to the inherited or acquired genetic characteristics of a natural person which gives unique information about the behavioural characteristics, physiology or the health of that natural person and which results, in particular, from an analysis of a biological sample from the natural person in question;

(f) "transgender status" means the condition of a data principal whose sense of gender does not match with the gender assigned to that data principal at birth, whether or not they have undergone sex reassignment surgery, hormone therapy, laser therapy or any other similar medical procedure; and

(g) "intersex status" means the condition of a data principal who is a combination of female and male; or neither wholly female nor wholly male; or neither female nor male;';

(iv) after clause *(z),* the following new clause shall be inserted, namely:-

'(za)"significant harm" means harm that has an aggravated effect having regard to the nature of the personal data being processed, the impact, continuity, persistence or irreversibility of the harm.

Explanation: For the purposes of this clause, "harm" includes bodily or mental injury; loss, distortion or theft of identity; financial loss or loss of property; loss of reputation or humiliation; loss of employment; any discriminatory treatment; any subjection to blackmail or extortion; any denial or withdrawal of a service, benefit or goods resulting from an evaluative decision about the data principal; any restriction placed or suffered directly or indirectly on speech, movement or any other action arising out of a fear of being observed or being under surveillance; any observation or surveillance that is not reasonably expected by the data principal; psychological manipulation which impairs the autonomy of the data principal; or such other harm, as may be prescribed.'; and

(v) the clauses *(za)* and *(zb)* may accordingly be re-numbered as *(zb)* and *(zc)* respectively.

3. In the principal Act, in section 3, in clause *(a),* after the words "where personal data is collected", the words "stored, disclosed, shared or otherwise processed", shall be inserted. Amendment of section 3.

4. In the principal Act, in section 4, in sub-section *(1)*- Amendment of section 4.

(i) for clause *(a),* the following shall be substituted, namely:-

'*(a)* only for the specific purpose for which the Data Principal has given her consent and which the Data Principal would reasonably expect that such personal data shall be only used for such purpose and in the context and circumstances in which the personal data was collected; or'

(*ii*) the following proviso shall be inserted, namely:-

"Provided that the processing of such data shall be in a fair and reasonable manner ensuring the privacy of the Data Principal."

5. In the principal Act, after section 4, the following new section shall be inserted, namely:- Insertion of new section 4A.

"**4A**. The personal data shall be collected only to the extent that is necessary for the purposes of processing of such personal data." Limitation on collection of personal data.

6. In the principal Act, in section 5, in sub-section *(1)*- Amendment of section 5.

(i) after the words "under section 6 for consent", the words "at the time of collection of personal data", shall be inserted;

(ii) after clause *(i)*, the following new clauses shall be inserted namely:-

"*(ia)* the source of collection, if the personal data is not collected directly from the Data Principal;

(ib) the individuals or entities including other Data Fiduciaries or Data Processors, with whom such personal data may be shared, if applicable;

(ic) the period for which personal data shall be retained or where

such period is not known, the criteria for determining such period;"

Insertion of new section 5A.

7. In the principal Act, after section 5, the following new section shall be inserted namely:-

Categorisation of personal data as sensitive personal data.

"**5A**. *(1)* The Central Government shall, from time to time, notify such categories of personal data as "sensitive personal data", having regard to—

(a) the risk of significant harm that may be caused to the Data Principal by the processing of such category of personal data;

(b) the expectation of confidentiality attached to such category of personal data;

(c) whether a significantly discernible class of Data Principals may suffer significant harm from the processing of such category of personal data; and

(d) the adequacy of protection afforded by ordinary provisions applicable to personal data.

(2) The Central Government may also specify, by rules and regulations, the additional safeguards or restrictions for the purposes of repeated, continuous or systematic collection of sensitive personal data for profiling of such personal data."

Amendment of section 6.

8. In the principal Act, in section 6,

(i) after sub-section *(1),* the following new sub-section shall be inserted, namely:-

"*(1A)* The consent of the Data Principal in respect of processing of any sensitive personal data shall be explicitly obtained—

(a) after informing her the purpose of, or operation in, processing which is likely to cause significant harm to the Data Principal;

(b) in clear terms without recourse to inference from conduct in a context; and

(c) after giving her the choice of separately consenting to the purposes of, operations in, the use of different categories of, sensitive personal data relevant to processing."

(ii) in sub-section *(6),* for the words "within a reasonable time", the words "within a period of thirty days from the date of withdrawal of consent", shall be substituted.

(iii) after sub-section *(7),* the following new sub-sections shall be inserted:-

"*(7A)* The provision of any goods or services or the quality thereof, or the performance of any contract, or the enjoyment of any legal right or claim, shall not be made conditional on the consent to the processing of any personal data not necessary for that purpose.

(7B) The burden of proof that the consent has been given by the Data Principal for processing of the personal data under this section shall be on the Data Fiduciary."

9. In the principal Act, in section 7, for clause *(a),* the following shall be substituted:- Amendment of section 7.

"*(a)* only for the specified purpose for which the Data Principal has voluntarily provided her personal data to the Data Fiduciary."

10. In the principal Act, after section 7, the following new section shall be inserted, namely:- Insertion of new section 7A.

Restriction on retention of personal data.

"**7A.***(1)* The Data Fiduciary shall not retain any personal data beyond the period necessary to satisfy the purpose for which it is collected and processed and shall delete the same at the end of such period.

(2) Notwithstanding anything contained in sub-section *(1),* the personal data may be retained for a longer period only if explicitly consented to by the Data Principal or is necessary to comply with any obligation under any law for the time being in force.

(3) The Data Fiduciary shall undertake periodic review to determine whether it is necessary to retain the personal data in its possession.

(4) Where it is not necessary for personal data to be retained by the Data Fiduciary under sub-section *(1)* or sub-section *(2),* then, such personal data shall be deleted in such manner as may be specified by regulations."

11. In the principal Act, in section 8, in sub-section *(7),* for clause *(a),* the following shall be substituted, namely:- Amendment of section 8.

"*(a)* erase personal data, upon the Data Principal withdrawing her consent or immediately upon the specified purpose for which the personal data was collected or processed has been served."

12. In the principal Act, in section 12, after sub-section *(3),* the following new sub-sections shall be inserted, namely:- Amendment of section 12.

"*(4)* Where the Data Fiduciary receives a request under sub-sections *(2)* and *(3),* and the Data Fiduciary does not agree with such correction, completion, updation or erasure having regard to the purposes of processing, such Data Fiduciary shall provide the Data Principal with adequate justification in writing for rejecting the application, within a period of thirty days of receipt of such request.

(5) Where the Data Principal is not satisfied with the justification provided by the Data Fiduciary under sub-section *(4),* the Data Principal may require that the Data Fiduciary take reasonable steps to indicate, alongside the relevant personal data, that the same is disputed by the Data Principal.

(6) Where the Data Fiduciary corrects, completes, updates or erases any personal data in accordance with sub-sections *(2)* and *(3),* such Data Fiduciary shall also take necessary steps to notify all relevant entities or individuals to whom such personal data may have been disclosed regarding the relevant correction, completion, updation or erasure, particularly where such action may have an impact on the rights and interests of the Data Principal or on decisions made regarding them."

Insertion of new section 12A and 12B.

13. In the principal Act, after section 12, the following new sections shall be inserted, namely:-

Right to data portability.

"**12A.** *(1)* Where the processing has been carried out through automated means, the Data Principal shall have the right to—

(a) receive the following personal data in a structured, commonly used and machine-readable format—

(i) the personal data provided to the Data Fiduciary;

(ii) the data which has been generated in the course of provision of services or use of goods by the Data Fiduciary; or

(iii) the data which forms part of any profile on the Data Principal, or which the Data Fiduciary has otherwise obtained; and

(b) transfer the personal data referred to in clause (a) to any other Data Fiduciary in the format referred to in that clause.

(2) The provisions of sub-section *(1)* shall not apply where—

(a) processing is necessary for functions of the State or in compliance of any law or any judgement or order of any court, quasi-judicial authority or tribunal under section 7;

(b) compliance with the request in sub-section (1) would not be technically feasible, as determined by the Data Fiduciary in such manner as may be specified by regulations.

Right to be forgotten.

12B. *(1)* The Data Principal shall have the right to restrict or prevent the continuing disclosure of her personal data by a Data Fiduciary where such processing or disclosure—

(a) has served the purpose for which it was collected or is no longer necessary for the purpose and there are no other legal grounds for its processing or disclosure; or

(b) was made with the consent of the Data Principal under section 6 and such consent has since been withdrawn; or

(c) has been objected to by the Data Principal and there are no overriding legitimate grounds for processing or disclosure; or

(d) was made contrary to the provisions of this Act or any other law for the time being in force.

(2) The rights under sub-section *(1)* may be enforced only on an order of the Board made on an application filed by the Data Principal, in such form and manner as may be prescribed, on any of the grounds specified under clauses *(a), (b)* or clause *(c)* of that sub-section:

Provided that no order shall be made under this sub-section unless it is shown by the Data Principal that her right or interest in preventing or restricting the continued disclosure of her personal data overrides the right to freedom of speech and expression and the right to information of any other citizen.

(3) The Board shall, while making an order under sub-section *(2),*have regard to—

(a) the sensitivity of the personal data;

(b) the scale of disclosure and the degree of accessibility sought to be restricted or prevented;

(c) the role of the Data Principal in public life;

(d) the relevance of the personal data to the public; and

(e) the nature of the disclosure and of the activities of the Data Fiduciary, particularly whether the Data Fiduciary systematically facilitates access to personal data and whether the activities shall be significantly impeded if disclosures of the relevant nature were to be restricted or prevented.

(4) Where any person finds that personal data, the disclosure of which has been restricted or prevented by an order of the Board under sub-section *(2),* does not satisfy the conditions referred to in that sub-section, he may apply for the review of that order to the Board in such manner as may be prescribed, and the Board shall review the order.

(5) Any person aggrieved by an order made under this section by the Board may prefer an appeal to the Appellate Tribunal.

14. In the principal Act, in section 13, in sub-section *(2),* for the words "within such period as may be prescribed", the words "within thirty days", shall be substituted. Amendment of section 13.

15. In the principal Act, in section 17, sub-section *(3)* may be omitted. Amendment of section 17.

16. In the principal Act, in section 20, for sub-section*(2),* the following shall be substituted, namely: - Amendment of section 20.

"*(2)* The Chairperson and other Members shall hold office for a term of five years and shall not be eligible for re-appointment."

17. In the principal Act, in section 40, in sub-section *(2),* clause *(o)* shall be omitted. Amendment of section 40.

STATEMENT OF OBJECTS AND REASONS

In a country like India with a population of around 1.4 billion, out of which at least 1.2 billion are mobile phone users, the State has an onerous responsibility to ensure data privacy of citizens, particularly of personal data. At a time when technology has become the defining paradigm, particularly in the post-COVID world, which represents a watershed moment for the role of digital technologies in our lives, data is the new 'gold', a very valuable asset, which if processed and used wisely can be a gamechanger in the development story of any society and nation. Data is the lifeblood of the digital economy. In this scenario, putting in place a strong data privacy regime has become a necessity of the times to leverage the potential of data without compromising the privacy of its citizens. Protection of personal data holds the key to empowerment, progress, and innovation.

The Right to Privacy was not directly envisaged by the Constitution makers and as such does not find a mention in Part III of the Constitution relating to Fundamental Rights. However, through various judgements over the years the Courts of the country have interpreted the other rights in the Constitution to be giving rise to a limited right to privacy – primarily through Article 21 – the right to life and liberty. In 2015, this interpretation was challenged and referred to a larger Bench of the Supreme Court in the writ petition of Justice K.S Puttaswamy & Another vs. Union of India and Others [Writ Petition (civil) No. 494 of 2012]. The Court in a landmark judgement on 24 August, 2017 unanimously ruled that privacy is a fundamental right, and that the right to privacy is protected as an intrinsic part of the right to life and personal liberty, as a part of the freedoms guaranteed by Part III of the Constitution. The Bench also ruled that the right to privacy is not absolute, but is subject to reasonable restrictions, as is every other fundamental right.

Privacy enjoys a robust legal framework internationally. Article 12 of the Universal Declaration of Human Rights, 1948 and Article 17 of the International Covenant on Civil and Political Rights (ICCPR), 1966, legally protect persons against "arbitrary interference" with one's privacy, family, home, correspondence, honour and reputation. The General Data Protection Regulation (GDPR) of the European Union, which came into force on 25 May 2018 is also a case in point.

The Digital Personal Data Protection (DPDP) Act passed in 2023 (22 of 2023) is a welcome step in this direction. However, there are many shortcomings and loopholes in the new Act, which waters down the legislative intent of ensuring a strong data privacy framework at par with other nations and dilutes accountability and transparency. As a corrective measure to the Act, this Bill aims to widen its scope by addressing certain key aspects and concerns flagged by stakeholders. To begin with, the applicability of the Act is proposed to be made broad based to include not only personal data that is collected, but also stored, disclosed, shared or otherwise processed. Certain definitions are also being proposed to render clarity to the various terminologies used in the Bill. Purpose limitation has been proposed to ensure that data may be processed only for the specific purpose for which the Data Principal has given consent and shall be used only in the context and circumstances in which the data was collected, thus guaranteeing the right to privacy to all citizens. The scope of the information to be accompanied or preceded by the notice to be given by a Data Fiduciary to a Data Principal at the time of collection of personal data has also been widened so that each individual while giving their consent can

make an informed and free decision with full knowledge of the implications of giving consent.

The present Act is silent on sensitive personal data and its collection and processing. It is therefore proposed to categorise sensitive personal data and clearly define it. The present Act also does not regulate the risks of harms including material losses such as financial loss, loss of access to benefits or services, identity theft, loss of reputation, discrimination etc., arising out of processing of personal data. The Committee of Experts on Data Protection constituted by the Central Government in 2017 under the chairmanship of Justice B.N. Srikrishna to examine the issues relating to data protection in the country in its Report had observed that harm is a possible consequence of personal data processing and had recommended that it should be regulated under a data protection law. The Bill therefore proposes that explicit consent is mandatory for collection and processing of sensitive personal data. Further, it is proposed that in cases of withdrawal of consent by the data principal, the request must necessarily be processed and implemented within a stipulated time frame of thirty days. The Bill also seeks to restrict the retention of personal data.

In the DPDP Act, 2023, the provisions relating to Right to Data Portability and the Right to be Forgotten have not been included. Both these rights were part of the 2018 draft Bill and the Personal Data Protection Bill, 2019 introduced in Parliament and was recommended by the Joint Parliamentary Committee on the Personal Data Protection Bill, 2019. The Srikrishna Committee (2018) had observed that a strong set of rights of data principals is an essential component of a data protection law and that these rights are based on the principles of autonomy, transparency and accountability to give individuals control over their data. The GDPR of the European Union also recognises these rights. The right to data portability allows data principals to obtain and transfer their data from data fiduciary for their own use in a structured, commonly used and machine-readable format, thus giving the data principals greater control over their data. It also facilitates migration of data from one data fiduciary to another.

The Right to be Forgotten refers to the right of individuals to limit the disclosure of their personal data on the internet and to have their personal data removed or erased in certain circumstances, such as withdrawal of consent or the purpose for which data was collected and processed has been served or the data is requested to be pulled down by the data principal for various reasons. Guaranteeing of this right is imperative in the present times when a person is often haunted by the data being retained in the digital world, irrespective of its veracity or contextual relevance, and has the power to cause damage to a person's right to life with dignity. The Srikrishna Committee (2018) observed that the Right to be Forgotten is an idea that attempts to instil the limitations of memory into an otherwise limitless digital sphere. However, the Committee has also highlighted that this right may need to be balanced with competing rights and interests and has laid down five-point criteria for determining its applicability. Several Court pronouncements have also recognised this right, particularly when it pertains to sensitive personal information and acquittals which if allowed to remain on digital platforms adversely affects the personal life of an individual, continued loss of respect, employment opportunities, matrimonial prospects and leads to discrimination and isolation in society. The present Bill therefore, proposes to incorporate the Right to be Forgotten subject to

the limitations based on the five-point criteria laid down in the Srikrishna Committee Report.

The Bill also proposes to omit the exemption given to certain class of data fiduciaries from giving the requisite notice before collection of personal data and obtaining consent for its processing. Though the present Act provides that the Data Protection Board of India will function as an independent body, the appointment of its Members for two years with eligibility for re-appointment is likely to lead to increased influence and control of the Executive. It is therefore, proposed that Members of the Board will be appointed for five years and will not be eligible for re-appointment, so that the independent functioning of the Board is not undermined.

The above-mentioned amendments will definitely give more teeth to our data protection framework and strengthen it sufficiently so that India can unleash the power of data and use it to its fullest potential in transforming our country and economy into one of the foremost powers in the world.

Hence this Bill.

SANDOSH KUMAR P.

XXIII

Bill No. LXXXIV of 2024

A Bill to provide for the establishment of a National Commission for the Welfare of Salt Workers 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 National Commission for the Welfare of Salt Workers Act, 2024.

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

Definitions.

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

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

(b) "Commission" means the National Commission for the Welfare of Salt Workers established under section 3;

(c) "employer" means any person who employs, whether directly or through any other person, or contractor, whether on behalf of himself or on behalf of any other person, one or more labourer or workers for work related to salt making from sea or salt lake, as the case may be, including handling of salt;

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

(e) "salt worker" means any person engaged in making salt from sea or lake water on land by digging shallow wells and pumping out brine or in a chemical factory or any related occupation as a wage earner, whether in cash or kind, for his livelihood.

Establishment of a National Commission for the Welfare of Salt Workers.

3. ***(1)*** **The Central Government shall, by notification in the Official Gazette, establish a Commission to be known as the National Commission for the Welfare of Salt workers to improve the conditions of salt workers in the country.**

(2) The Commission 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 acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Commission shall be at New Delhi.

(4) The Commission may, with the approval of the Central Government, establish offices at other places in the country, as it may deem necessary, for the efficient discharge of its functions as assigned under this Act.

(5) The Commission shall consist of the following, namely—

(a) a Chairperson;

(b) a Deputy Chairperson; and

(c) three Members

to be appointed by the President by warrant under his hand and seal from amongst persons having special knowledge and vast experience in the field of human rights, law, social security and healthcare of vulnerable sections of the society.

(6) The Commission shall meet as and when necessary and at such times and places as the Chairperson may deem fit for the efficient discharge of the functions assigned to it under this Act.

(7) The Commission shall have the power to regulate its own procedure with regard to transaction of its business.

Terms of office and conditions of service of the Chairperson and Members.

4. ***(1)*** **The term of office of, salaries and other allowances payable to, and other conditions of service of, the Chairperson, Deputy Chairperson and Members of the Commission shall be such as may be prescribed.**

(2) The Chairperson or Deputy Chairperson or a Member may, at any time, resign from his office, by writing under his hand addressed to the President and on such resignation being accepted, he shall be deemed to have vacated his office.

Vacancies etc. not to invalidate proceedings

5. No act or proceeding of the Commission shall be invalid merely by reason of:

(a) any vacancy in, or any defect in the constitution of, the Commission;

(b) any defect in the appointment of a person as Chairperson or Member of the Commission; or

(c) any irregularity in the procedure of the Commission not affecting the merits of the case.

Officers, staff and experts of the Commission.

6. ***(1)*** **The Central Government shall appoint such number of officers and staff including experts to the Commission, as may be required, for its efficient functioning.**

(2) **The method of recruitment, qualifications and experience, salaries and allowances payable to and other terms and conditions of service of the officers, staff and experts of the Commission shall be such as may be prescribed.**

Members, officers and staff to be public servants.

7. The Chairperson, Deputy Chairperson, Members, officers, staff and experts of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of sub-section *(2)* of section 28 of the Bharatiya Nyaya Sanhita, 2023.

45 of 2023.

Functions of the Commission.

8. *(1)* It shall be the duty of the Commission to take such steps, as it may deem appropriate, for the welfare and protection of the rights of salt workers and their dependent family members.

(2) Without prejudice to the generality of the foregoing provision, the Commission shall ensure the following provisions are made for the benefit and welfare of salt workers, namely,—

(a) draft a national policy for the welfare and rehabilitation of salt workers across the country that shall be binding on both the Central and State Governments;

(b) **ensure the collection of statistics of all salt workers in the country on a regular basis;**

(c) **undertake the registration of all salt workers at the national and state level by assigning and issuing a Salt Worker Identification Number (SWIN) Card for each of them, in such form and manner as may be prescribed;**

(d) ensure legal equality to salt workers in status and rights in relation to other wage earners performing the same work;

(e) ensure decent wages, social security and occupational health and safety provisions for salt workers through appropriate legislative and administrative measures;

(f) identify, prevent and mitigate potential human rights violations that affect salt workers;

(g) **promote community-based skill-building trainings for the salt workers in coordination with the State and local Governments;**

*(h) e*nsure financial and digital inclusion of salt workers;

(i) receive grievances or complaints from salt workers or their representatives regarding deprivation of their rights, exploitation or violation of any of the provisions of this Act and investigate into complaints so received from them;

(j) collaborate with all relevant stakeholders including the representatives of salt workers, NGOs and trade unions in pursuance of the objective of the Commission;

(k) prepare and present to the President, annually and at such other times as the Commission may deem fit, reports on any matters relating to the welfare of salt workers and in particular in relation to its functions assigned under this Act, containing therein its recommendations to the Centre and the States, as the case may be, for the effective implementation of the safeguards for the protection of their interests and removal of any difficulties faced by them, in such form and manner as may be prescribed; and

(l) any other matter related to salt workers and their welfare, which may be referred to the Commission by the Central or State Governments.

President to lay reports.

9. *(1)* The President shall cause to be laid before each House of Parliament, all such reports presented to him under clause *(k)* of sub-section *(2)* of section 8, alongwith a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Centre and the reasons for the non-acceptance, if any, of any of such recommendations.

(2) Where any such report, or any part thereof relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of that State, who shall in turn, cause it to be laid before each House of the Legislature of the State, where it consists of two House, or where such Legislature consists of one House, before that House, alongwith an explanatory memorandum explaining the action taken or proposed to be taken on the recommendations related to the State, and the reasons for the non-acceptance, if any, of any of such recommendations.

Commission to have powers of a Civil Court.

10. The Commission shall, while investigating any matter referred to in clause *(f)* and clause *(i)* of sub-section *(2)* of section 8, have all the powers of a Civil Court trying a suit and, in particular in respect of the following matters, namely, —

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commission for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

Appropriate Government to consult the Commission.

11. The appropriate Government shall consult the Commission on all policies affecting the interests of salt workers.

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

Central Government to provide adequate funds to the Commission.

13. *(1)* The Commission shall, in consultation with the Comptroller and Auditor-General of India, maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner and at such time of each financial year, as may be prescribed.

Accounts and audit.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General; generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission.

14. The Commission shall prepare, in such form and manner and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

Annual report.

15. The Central Government shall cause the annual report together with the audit report to be laid, as soon as may be after the reports are received, before each House of Parliament.

Annual report and audit report to be laid before Parliament.

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 the difficulty:

Power to remove difficulties.

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

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

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

Act to have overriding effect.

18. *(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 and regulations.

(2) The Commission may, with the approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide

for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

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

STATEMENT OF OBJECTS AND REASONS

India is the world's third largest producer of common salt after China and the USA. In India, salt is produced in the coastal states of Gujarat, Maharashtra, Goa, Karnataka, Andhra Pradesh, Odisha, West Bengal and Tamil Nadu. Although salt is popularly perceived as the greatest symbol of India's struggle for independence, salt workers in our country continue to live under extreme poverty, bonded labour and chronic diseases. Salt Industry in India is labour intensive and majority of the workers are unskilled. They are seasonal workers with marginal source of income. Since their job is seasonal in nature, they lack permanent employment contract, adequate wages and social security. The living conditions of these salt workers lack basic amenities like potable drinking water, toilets and waste management systems. Besides, they are exposed to hazardous environmental factors including extreme climatic conditions. They do the toughest of manual jobs, risking blindness, blood pressure, skin lesions, knee injury, back pain and exhaustion, and epidemics such as malaria. Their children are mostly school drop-outs and are vulnerable to chronic cough and tuberculosis. Even though the salt workers make salt under extreme weather conditions, they were often exploited by the contractors, intermediaries and money-lenders. The employers hardly offer them protective gear such as eye goggles or gum boots. Amenities for first aid and recreation are inadequate in many places. The recent evidences from the field studies reflect that salt workers in India suffer from substance abuse, alcohol dependency, work place violence, low wage, poor nutrition status, illiteracy and domestic violence against women. Since they are out of the purview of social and health security schemes, there is an urgent need to initiate appropriate legislative measures to empower the salt workers economically and socially. There is a critical need to enact a comprehensive national policy on salt workers and support them with economic, social and health security measures. Besides, there should be continuous monitoring and evaluation of the condition of salt workers alongwith strict mechanisms to prevent exploitation and physical abuse by contractors and employees. Therefore, the establishment of a national level independent body, i.*e.*, the National Commission for the Welfare of Salt Workers, with quasi-judicial powers, is proposed to address many of these issues faced by salt workers.

Hence, this Bill.

SANDOSH KUMAR P.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of the National Commission for the Welfare of Salt Workers to carry out the responsibilities assigned to it consisting of a Chairperson, Deputy Chairperson and Members. Clause 4 of the Bill provides for the salaries and allowances payable to and other terms and conditions of service of the Chairperson, Deputy Chairperson and Members of the Commission, whereas Clause 6 provides that the Central Government shall provide such number of officers, staff and experts to the Commission, as may be required for the efficient performance of its duties and for the salaries and allowances payable and other terms and conditions of service applicable to them. Clause 8 of the Bill lays down the functions of the Commission, *inter alia* including collection of statistics of salt workers across the country and ensuring their registration, assigning and issuing of Salt Worker Identification Number (SWIN) Card to each salt worker, conducting of community-based skill-building trainings for them etc. Clause 12 of the Bill provides for the Central Government to provide adequate funds to the Commission to aid its efficient functioning.

The Bill, therefore, if enacted, would involve expenditure, both of non-recurring and recurring nature 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 16 of the Bill empowers the Central Government make such provisions through an order for removing any difficulty that might arise in giving effect to the provisions of the Bill. Clause 18 of the Bill empowers the Central Government to make rules and the National Commission for the Welfare of Salt Workers, with the approval of the Central Government, to make regulations, for carrying out the purposes of the Bill.

As the matters in respect of which rules or regulations or orders may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

XXIV

Bill No. LVII of 2024

A Bill to provide for a framework for enhancing the performance of the Parliament by fixing minimum number of sittings for each House of Parliament, extending the hours of a sitting, introduction of a short Session of Parliament in addition to the existing practice of three Sessions, institution of a mechanism to separately discuss opposition business, compensation for the hours unutilized due to disruptions 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

Short title and commencement.

1. (*1*) This Act may be called the Parliament (Productivity Enhancement) Act, 2024.

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

Definitions.

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

(a)"Committee" means the Opposition Business Committee constituted under section 7;

(b)"disruptions" means the act of shouting of slogans or expressing violent behaviour or coming to the well of the House which leads to substantial delays in transaction of business or adjournment of the House;

(c)"interruption" means interjection by a Member during the speech of another Member;

(d)"Member" means Member of either House of Parliament, as the case may be; and

(e)"opposition business" means the agenda and debates brought forward by the Members of the non-ruling parties.

CHAPTER II

SESSIONS OF EACH HOUSE OF PARLIAMENT

Number of Sessions in a year.

3. Subject to the provisions contained in article 85 of the Constitution, there shall be at least four Sessions, including a Short Session, of each House of Parliament in a year.

Short Session.

4. *(1)* A short session of each House of Parliament in a year shall entail the following, namely:—

(a) the Session shall be of minimum fifteen days duration;

(b) the Session shall only be devoted to deliberation on at least two most urgent matters of public importance and no other business including Government legislative business shall be conducted;

(c) the agenda for the Session may be decided by all political parties represented in each House of Parliament;

(d) each political party may submit at least two matters for intended discussion in the Short Session to the Business Advisory Committee of the respective Houses of Parliament in accordance with the rules, as may be prescribed; and

(e) the Business Advisory Committee of the respective Houses of Parliament shall decide the final topics for discussion and recommend allocation of time for such discussions in each House.

CHAPTER III

SITTINGS OF THE PARLIAMENT

Minimum number of sittings of each House of Parliament in a year.

5. Each House of Parliament shall compulsorily sit for not less than one hundred and twenty days in a year.

Motion for extension of a sitting.

6. *(1)* Except during Private Members' Business, a Member may move a motion, without a prior notice, to extend a sitting beyond the scheduled hour of adjournment for the purpose of considering a specified item of business subject to the following conditions:

(a) the motion shall relate to the business being considered at that point of time;

(b) the motion shall be proposed in the last hour before the scheduled hour of adjournment; and

(c) the motion shall not be subject to debate or amendment.

(*2*) In putting the question on such motion, the Chairman or the Speaker, as the case may be, shall collect voices both of 'Ayes' and 'Noes' in such manner as may be prescribed and the question before the House shall be determined accordingly.

CHAPTER IV

OPPOSITION BUSINESS COMMITTEE

Constitution of the Opposition Business Committee.

7. *(1)* The Chairman or the Speaker, as the case may be, shall, from time to time, constitute an Opposition Business Committee in each House of Parliament consisting of eight Members to be nominated in such manner as may be prescribed.

(2) The Committee constituted under sub-section *(1)* shall hold office until a new Committee is nominated.

Chairman of the Committee.

8. *(1)* The Chairman of the Committee shall be appointed by the Chairman or the Speaker, as the case may be, from amongst the members of the Committee.

(2) If the Chairperson of the Committee is for any reason unable to act, the Chairman or the Speaker, as the case may be, may appoint another Chairperson of the Committee in his or her place.

(3) If the Chairperson of the Committee is absent from any meeting, the Committee shall choose another member of the Committee to act as a Chairperson of the Committee for that meeting.

Quorum.

9. The quorum of the Committee shall be four.

Functions of the Committee.

10. *(1)* It shall be the function of the Committee to recommend the opposition business to be taken up in a sitting of the respective House of Parliament, on Monday during the Session periods other than a Short Session and also the time that shall be allocated for such opposition business.

(2) The business recommended by the Committee shall have precedence over Government business.

CHAPTER V

INTERRUPTION OR DISRUPTION OF BUSINESS

Exceptions for interruption.

11. A Member must not be interrupted, except by the Chairman or the Speaker or the Member presiding in the Chair, as the case may be, or another Member who is—

(a) raising a point of order; or

(b) trying to clarify some matter raised by the Member in his or her speech, but only if the Member speaking is willing to give way and resume his or her seat and the Member wishing to interrupt is called by the Chairman or the Speaker or the Member presiding in the Chair, as the case may be.

Extension of session.

12. *(1)* The number of hours lost due to disruptions shall be compensated by extending the Session of the respective House of Parliament by as many hours which were lost on account of adjournment of the sittings due to disruptions.

(2) For the purposes of sub-section *(1)*, the Chairman or the Speaker, as the case may be, shall have inherent powers to extend the Session of the

respective House of Parliament.

CHAPTER VI

MISCELLANEOUS

Amendment of the Rules of Procedure.

13. The Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) and the Rules of Procedure and Conduct of Business in the Lok Sabha may be amended, as deemed necessary, for the implementation of the provisions of this Act.

Power to make rules.

14. The Chairman or the Speaker, as the case may be, may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

As the central institution of democracy, the Indian Parliament expresses the faith of the people and embodies the will of those in the Government. As the representative of India's diverse population, Parliament has a unique responsibility of balancing competing interests and catering to the needs of the people through democratic means of deliberations and discussions. The Indian Parliament which witnessed its most productive Sessions during the initial decades suffers from a limited number of sittings, frequent disruptions, and high absenteeism in the 21st century. The drastic reduction of Parliament productivity has seriously deteriorated the quality of discussion and hampered overall efficiency.

The Parliament is the sole institution that secures the interests of the country as a whole. Apart from the regular legislative business, it also ensures that the Government is fully accountable to the people through the participation of non-ruling parties. However, the current framework does not adequately provide the Members of the opposition parties with means to intervene and lead discussions which lead to more delays and disruptions. Consequently, both Houses of Parliament are not able to perform the crucial function of parliamentary oversight.

It is imperative to urgently reform and strengthen the existing system which is only possible by extending the number of days the Parliament functions. To keep up with the rapidly changing needs of the people, the working hours of Parliament should in no situation be reduced due to delays or disruptions. Further, a separate mechanism for the opposition parties to put forward the most pressing issues of the people could substantially bring down the incidences of disorder in both Houses of Parliament.

The Bill seeks to achieve the above-stated objectives.

MANOJ KUMAR JHA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for at least four Sessions including a Short Session to be held in Parliament every year instead of the existing practice of three Sessions in a year. Thus the Bill, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about Rupees One hundred and thirty-five crore per annum is likely to be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 empowers the Chairman, Rajya Sabha or the Speaker, Lok Sabha, as the case may be, to make rules for carrying out the provisions of the Act. The matters in respect of which the rules may be made are of procedure and administrative details and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

XXV

Bill No. LVIII of 2024

A Bill to provide a framework for the prevention of custodial torture inflicted by public servants, punishment and compensation for custodial crimes, rehabilitation of victims, protection of victims, complainants and witnesses, 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:—

Short title and commencement.

1. *(1)* This Act may be called the Prevention of Custodial Torture Act, 2024.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(a) "appropriate Government" means in relation to a State, the Government of that State and in relation to a Union Territory, the Central Government;

(b) "public servant", without prejudice to clause (28) of section 2 of the Bharatiya Nyaya Sanhita, 2023, refers to any person acting in his/her official capacity under the Central Government or the State Government or employed in any Government Company as defined in clause (45) of section 2 of the Companies Act, 2013, or any other institution under the control of the Central Government or the State Government; and 45 of 2023. 18 of 2013.

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

(2) The words and expressions used but not defined in this Act shall have the same meanings respectively as assigned to them in the Bharatiya Nyaya Sanhita, 2023. 45 of 2023.

(3) Any reference in this Act to a law which is not in force in any area, shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

Custodial torture.

3. Whoever, being a public servant or being abetted by a public servant or with the consent or acquiescence of a public servant, intentionally inflicts physical or mental suffering on a person detained, held in custody or held in administrative detention or imprisoned as a result of conviction for an offence, for the purpose of:-

(a) obtaining information or a confession from him/her or a third person; or

(b) punishing for an act he/she or a third person has committed or is suspected of having committed; or

(c) intimidating or coercing him/her or a third person for any reason based on discrimination on the basis of caste, religion, gender, race, place of residence, language or sexual orientation,

is said to inflict custodial torture.

Provided that nothing contained in this section shall apply to any pain, hurt or danger caused by any act which is inflicted in accordance with any procedure established by law or justified by law.

Explanation. – For the purpose of this section, "custodial torture", apart from physical and mental suffering, includes, but is not limited to food deprivation, submersion of head in water, asphyxiation, use of psychoactive drugs, maltreating family members, and inflicting shame upon the victim.

Burden of Proof.

4. Where custodial torture referred in section 3 is inflicted on a person, the burden of proof that the torture was not intentionally caused or abetted by, or was not with the consent or acquiescence, of a public servant, shall shift to such public servant.

Punishment for custodial torture.

5. *(1)* Where the public servant referred to in section 3 or any person abetted by or with the consent or acquiescence of such public servant, tortures or attempts to torture any person, such public servant or person shall be punishable with imprisonment for a term which shall not be less than three years but which can extend to ten years and shall also be liable to fine which shall not be less than one lakh rupees.

(2) Where death of any person is caused due to custodial torture referred to in section 3, the person committing the offence shall be punishable with imprisonment for life and shall also be liable to fine.

Compensation to victims of custodial torture.

6. *(1)* Any public servant or other person committing custodial torture or attempting to commit such torture shall also be liable to a fine which shall be payable as compensation to the affected person.

***(2)* Notwithstanding the fine imposed under this Act, the appropriate Government may award such amount of compensation including interim compensation to the victim of custodial torture as may be considered necessary for rehabilitation of the victim.**

(*3*) Compensation by the appropriate Government to the victim of custodial torture for the purpose of his rehabilitation shall be awarded taking into consideration amongst others, the following factors, namely:-

***(a)* the gravity of the physical and mental harm and suffering inflicted, including death if caused as a result of custodial torture;**

***(b)* lost opportunities, including employment, education and social benefits;**

***(c)* material damages and loss of earnings including loss of earning potential;**

***(d)* cost required for legal or expert assistance, medicine and medical services, and psychological and social services; and**

***(e)* the age, family responsibilities and material condition of the dependents of the victim.**

***(4)* In case of death due to custodial torture, the dependents of the deceased person shall be entitled to compensation including interim compensation under this Act, as may be prescribed.**

Abetment to torture.

7. A public servant who abets, consents, acquiesces, or conspires to commit custodial torture referred to in section 3 shall be liable to the same punishment and compensation referred to in section 5 and section 6.

Custodial sexual abuse.

8. *(1)* Whoever, being a public servant or with the consent or acquiescence of a public servant, sexually abuses a person detained, held in custody or held in administrative detention or imprisoned as a result of conviction for an offence, shall be punished with rigorous imprisonment of either description for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

(2) A public servant who consents, acquiesces, or conspires to commit custodial sexual abuse referred to in sub-section *(1)*, shall be liable to the same punishment referred to in sub-section *(1)*.

Cognizance of the Offence.

9. Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, no court shall take cognizance of an offence under this Act unless the complaint is made within a period of two years from the date on which the offence is alleged to have been committed.

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Protection of victims, complainants and witnesses.

10. It shall be the duty and responsibility of the State Government to make arrangements for the protection of victims of custodial torture and custodial sexual abuse, complainants and witnesses against all kinds of ill-treatment, violence, threats of violence, or physical harm or mental trauma, from the time of submission of the complaint till such time the State Government is satisfied that such protection is no longer required.

Effect of the provisions.

11. *(1)* The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

(2) The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

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

STATEMENT OF OBJECTS AND REASONS

Article 21 of the Indian Constitution guarantees the right to life and personal liberty to each and every person in the country. Custodial violence not only takes away the fundamental right to life but also viciously violates human dignity. Unfortunately, the existing laws in India do not adequately address custodial crimes.

India is a signatory to the United Nation Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment since 14th October 1997. However, India is yet to ratify the same. Therefore, enabling legislation against torture is necessary for the ratification of the Convention. A legislation against custodial torture in consonance with the definition of torture provided under the Convention and related Indian legal provisions will ensure a right against custodial torture for all persons in India.

The Supreme Court in the case of *D.K. Basu v. State of West Bengal* (1997) held that the expression "life or personal liberty" in Article 21 of the Constitution of India includes a guarantee against torture and assault even by the State and its functionaries to a person who is taken into custody. The Law Commission of India has also recommended ratification of the UN Convention against Torture and tougher laws for custodial torture.

In 2010, the Lok Sabha passed the Prevention of Torture Bill, 2010 which subsequently lapsed in Rajya Sabha. However, the Select Committee of Rajya Sabha in its report on the 2010 Bill flagged certain gaps in the Bill and suggested stricter provisions to prevent custodial torture. Taking a cue from the Committee Report, the current bill criminalises custodial torture, death and sexual abuse, and prescribes punishments for these offences. In addition to this, the Bill also provides a legal framework for compensation, rehabilitation, and protection of victims of custodial violence.

The Bill seeks to achieve the above-stated objectives.

MANOJ KUMAR JHA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 empowers the Central Government, as the case may be, to make rules for carrying out the provisions of the Bill. The matters in respect of which the rules and regulations may be made are of procedure and administrative details and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

XXVI

Bill No. LVI 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 the Official Gazette, appoint.

Amendment of article 124.

2. In article 124 of the Constitution, after clause *(1)*, the following proviso and Explanation shall be inserted, namely:—

"Provided that such number of Judges, as nearly as may be, equal to the proportion of the population of the Scheduled Castes, the

Scheduled Tribes and the Other Backward Classes to the total population of the country, shall be appointed from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes.

Explanation.—In this article, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published."

Amendment of article 216.

3. In article 216 of the Constitution, the following proviso and Explanations shall be inserted, namely:—

"Provided that such number of Judges, as nearly as may be, equal to the proportion of the population of the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes to the total population of the State, shall be appointed from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes.

Explanation I.—In this article, "State" includes all States and Union Territories that share a common High Court.

Explanation II.—In this article, the expression "population" means the population as ascertained at the last preceding Census of which the relevant figures have been published."

STATEMENT OF OBJECTS AND REASONS

Even after 75 years of affirmative action, the disadvantaged and marginalised communities in the country are not adequately represented in the higher judiciary. As the guardian of the Constitution and the last resort to the millions of citizens, the Supreme Court of India influences the lives of each and everyone in the country. Therefore, it is imperative that judges represent the broadest spectrum of society.

Since independence, a very small number of judges belonging to marginalised communities were able to serve as judges of the Supreme Court and High Courts. Caste-based reservation has been an integral part of the Indian principle of equality, therefore, its absence in the superior judiciary is unconvincing and needs to be rectified. Without a constitutional provision for reservation, it is highly improbable for persons from these communities to reach such eminent positions through natural means. Further, the existence of reservation in subordinate courts is reason enough for its introduction in higher courts as well.

India is a highly diverse country and its diversity should also be reflected in the higher judiciary. A more inclusive judiciary is also more likely to foster balanced and comprehensive discussions on matters related to caste, gender, access, and equality. The first-hand knowledge of the issues pertaining to backward classes would also help in developing a more advanced understanding of the caste-based problems in the country.

In the absence of a formal and written framework, representation in the higher judiciary could not be expanded on its own. A constitutional mandate in this regard would ensure that the superior courts are never underrepresented. Previously, Parliamentary Committees and the National Commission for Scheduled Castes have also recommended similar provisions for the appointment of judges in the Supreme Court and High Courts. It is of utmost importance that equitable representation and fair play in the higher judiciary is secured through the channels of the Constitution.

Hence, this Bill.

MANOJ KUMAR JHA

XXVII

Bill No. LIX 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 at once.

2. In Part IV of the Constitution, after article 48-A, the following new article shall be inserted, namely: — Insertion of new article 48-B.

"**48-B.** The State shall endeavour to develop, promote and regulate the Promotion and regulation of the traditional domestic fisheries sector.

traditional domestic fisheries sector to improve its marketing network, quality of seafood produced, maintain hygiene standards and take all necessary steps for economic stability and upliftment of the small-time marginal fishermen engaged in this traditional sector.".

Insertion of new article 51-B.

3. In Part IV-A of the Constitution, after article 51-A, the following new article shall be inserted, namely: —

Compulsory voting.

"**51-B.** It shall be compulsory for every citizen of India, who is eligible to vote and has been registered as a voter, to exercise his right to vote in the general elections to the State Legislative Assemblies and the House of the People.

Provided that in case of a genuine emergency, a voter may be exempted from exercising his right to vote, if the district election officer or such other officer, to whom such authority may be delegated by the district election officer, on receipt of a written request from the voter before the date of polling, is satisfied that there are genuine and bona fide grounds for such exemption.".

STATEMENT OF OBJECTS AND REASONS

The absence of effective monitoring and oversight has resulted in issues such as overfishing, illegal fishing practices, and unfair pricing for the fishermen. In the absence of proper regulations and support, traditional domestic fishermen are at risk of losing their livelihoods, while the nation's seafood industry is at risk of collapse. It is imperative for the Government to intervene and establish a robust framework and system that ensures the sustainability of the seafood industry, protects the livelihoods of the fishermen, and promotes fair trade practices. This may involve implementing quotas to prevent overfishing, enforcing regulations to prevent illegal fishing practices, and setting up quality control measures to ensure that only the highest quality seafood reaches the market. Additionally, the Government should extend support to small-scale fishermen by offering training programs, access to technology and equipment, and financial assistance. By investing in the seafood industry and supporting the fishermen who depend on it, the nation can ensure the long-term viability of this vital sector and preserve its rich maritime heritage. It is therefore, proposed to make the promotion and regulation of the traditional domestic fisheries sector, a Directive Principle of State Policy by inserting a new article 48-B in Part-IV of the Constitution.

One potential solution to address the issue of decreasing voter participation is to implement mandatory voting for citizens. By making it mandatory under the Constitution for all eligible voters to cast their ballots in general elections, we can help raise awareness about the importance of exercising this fundamental right in a democratic society. Mandatory voting could also lead to the election of more competent and representative public officials, as it would ensure that a broader and more diverse range of voices are heard in the electoral process. This could help to combat issues such as voter apathy and disengagement, which can have negative consequences for the functioning of our democratic system. However, it is important to recognize that there may be certain circumstances in which individuals are unable to vote, such as illness, disability, or other extenuating circumstances. In these cases, the District Election Officer should be empowered to provide exemptions to ensure that no one is unfairly penalized for their inability to participate in the electoral process. Overall, implementing mandatory voting could be a valuable tool in addressing the worrisome trend of decreasing voter participation in general elections and strengthening our democratic system. By encouraging more citizens to take part in the electoral process, we can help to ensure that the Government truly represents the will of the people. It is therefore, proposed to insert a new article 51-B in Part-IV of the Constitution to provide for compulsory voting.

The Bill seeks to achieve the above objectives.

AJEET MADHAVRAO GOPCHADE

XXVIII

Bill No. LXVIII of 2024

A Bill to ensure transparency, accountability and quality assurance in the execution of public works by the Central Government by creation of a monitoring authority, promotion of fair tendering practices and drafting of guidelines for quality assurance and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to enact legislation to ensure transparency, accountability, and quality assurance in the execution of public works by the Central Government;

AND WHEREAS the intent is to prevent inefficiency and malpractices in the public works system through the use of technology, public involvement in the oversight of public works and establishment of a regulatory mechanism.

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1)* This Act may be called the Public Works (Quality Assurance and Transparency) Act, 2024.

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

Definitions.

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

(a) "Authority" means the Public Works Quality Assurance and Transparency Authority established under section 8 of this Act;

(b) "contractor" means any person, firm, or legal entity who undertakes or is awarded a contract or a tender by any public body to carry out the public works, as defined in clause*(h);*

(c) "designated Officer(s)" means any officer(s) of the public body designated for the purpose of preparing and submitting the list of public works undertaken by that body to the Authority in such form and manner within the stipulated timeframe and who will be responsible for the supply and maintenance of such information;

(d) "geotagging" means the process of adding geographical information, including latitude and longitude, to digital media for location-based monitoring;

(e) "Monitoring Agency" means any government or autonomous body assigned by the Authority for the inspection, supervision, and reporting of public works;

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

(g) "public body" means anybody, organization or establishment, by whatever name called, owned, controlled or substantially financed by or under the jurisdiction of the Central Government that engages in public works and includes any non-Government organization, directly or indirectly by the funds provided by the Central Government;

(h) "public works" means any civil/ electrical works including infrastructure, construction, maintenance, or development work, both original and repair work, funded or carried out by or under the authority of the Central Government, or public bodies, as may be notified by the Authority established under section 8 of this Act;

(i) "stipulated time" means the timelines or time frame as may be prescribed in the rules or regulations framed under this Act;

(j) "tender" means the formal offer submitted by a contractor in response to a government request for public works contracts; and

(k) "time-and-date-stamping" means the process of adding information about when a photograph was taken on a photographic device, in the form of time and date, to the photograph.

CHAPTER II

PUBLIC WORKS AND PROCEDURE FOR TENDERING AND MONITORING

Notifying of public works.

3. *(1)* Every public body shall, within a period of three months from the date of commencement of this Act, and thereafter, at such intervals, as may be prescribed, submit a list of public works undertaken by them, along with the particulars of the Designated Officer(s), to the Authority established under section 8 of this Act, in such form and manner as may be prescribed.

(2) The Authority shall, upon receipt of the information under sub-section *(1)*, immediately notify the list of such public works and shall cause the publication of the same on its website, in such form and manner, as may be prescribed.

Electronic tendering system.

4. *(1)* On and from the date of commencement of this Act, irrespective of the value of the tender, no public body shall undertake public works or procure public works services except by inviting tenders through electronic tendering system in such manner as may be prescribed under this Act.

(2) The e-tendering portal shall be accessible to the general public for scrutiny, and all relevant details of the tender, such as bidder information, project estimates, and deadlines, shall be made available on the portal.

(3) No tender shall be invited or processed or awarded by any public body after the commencement of this Act except in accordance with the procedure laid down under this Act or the rules and regulations made there under.

Mandatory public disclosure.

5. *(1)*Every public body shall make all tender-related documents, including bid submissions, financial estimates, project timelines, and contract awards including the name and details of the contractor(s), publicly available on a designated Central Government website.

(2) Any revisions or modifications to the tender documents after awarding the contract shall be disclosed on the designated Central Government website within seven working days.

Standard quality certification.

6. *(1)* Every public work shall undergo a quality assessment before the commencement, during the execution, and at the completion of the project.

(2) A qualified Monitoring Agency, as may be authorised by the Authority, shall certify the quality of materials, design, and compliance with established standards, after due inspection in such form and manner as may be prescribed and shall submit a report to the Authority within the stipulated time frame, as may be prescribed.

(3) No payment shall be released to the contractor(s) without obtaining quality certification as provided under sub-section *(2)* at every such milestone, as may be prescribed.

Use of geotagging for monitoring

7. *(1)* Every public body shall, by the seventh day of every month, or by the next working day, if the seventh day is not a working day, procure geotagged and time-and-date-stamped photographs of relevant public works and transmit such photographs to the Authority.

Provided that nothing in this section shall apply to such public works where the Central Government has certified that releasing geotagged and time-and-date-stamped photographs of a public work may have adverse implications on national security.

(2) The photographs referred to in sub-section *(1)* shall—

(a) clearly communicate the progress or lack of progress made in the relevant public work in the last month, as the case may be; and

(b) cover all major components of the relevant public work.

(3) The photographs referred to in sub-section *(1)* need not be procured and transmitted after the concerned public body has certified the completion of the public work.

(4) The Authority shall, by the fifteenth day of every month, or by the next working day, if the fifteenth day is not a working day, upload the photographs transmitted under sub-section (*1)* by the public bodies, on their website in a conspicuous manner, which shall be freely accessible to the public.

CHAPTER III

PUBLIC WORKS QUALITY ASSURANCES AND TRANPARENCY AUTHORITY

Establishment of the Public Works Quality Assurances and Transparency Authority.

8. ***(1)*** **With effect from such date as the Central Government shall, by notification in the Official Gazette appoint in this behalf, there shall be established for the purposes of this Act, an Authority to be known as the Public Works Quality Assurance and Transparency Authority, to exercise the powers conferred upon it and to perform the functions assigned to it under this Act.**

Provided that until the establishment of an Authority under this section, the Central Government shall, by order, designate any Regulatory Authority or any officer, preferably the Secretary of the Ministry dealing with Public Works, as the *interim* Regulatory Authority for the purposes under this Act.

Provided also that after the establishment of the Authority, all applications, complaints or cases pending with the *interim* Regulatory Authority or the officer so designated, as the case may be, shall stand transferred to the Authority so established and shall be heard from the stage such applications, complaints or cases are transferred.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with the power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The Authority shall be responsible for monitoring, regulating, and ensuring the quality of public works in the country.

(4) The head office of the Authority shall be at such place as the Central Government may, by notification in the Official Gazette, specify.

Composition of the Authority.

9. ***(1)*** **The Authority shall consist of the following members, to be appointed by the Central Government, in such manner as may be prescribed:–**

(a) **a Chairperson, who shall be a person of eminence with experience in public works, infrastructure development, or governance;**

(b) **not more than six members, including at least one legal expert, one civil engineer, and one representative from the public procurement sector; and**

(c) **an officer of the Central Government, not below the rank of Joint Secretary, as Member Secretary of the Authority.**

(2) The Chairperson and members shall hold office for a term of five years, subject to re-appointment.

(3) The qualifications for appointment of the Chairperson and other members of the Authority and the manner of filling of vacancies among the members of the Authority shall be such as may be prescribed.

(4) The Chairperson shall have the powers of general superintendence and direction in respect of all administrative matters of the Authority.

(5) The Chairperson shall, in addition to presiding over the meetings of the Authority, exercise and discharge such powers and duties of the Authority as may be delegated to him by the Authority and such other powers and duties as may be prescribed.

(6) The Authority shall meet at such times and places and shall observe such rules of procedure with regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by the regulations made by the Authority under this Act.

Terms of office and conditions of services of the Chairperson and members of the Authority.

10. ***(1)*** **The term of office of, salaries, remuneration or other allowances payable to, and other conditions of service of, the Chairperson and other members of the Authority shall be such as may be prescribed.**

(2) The Chairperson and any member may resign his office by giving notice thereof in writing to the Central Government and on such resignation being accepted, he shall be deemed to have vacated his office.

Officers and other employees of the Authority.

11. ***(1)*****The Authority may appoint such officers and other employees, as it deems necessary, for the efficient discharge of its functions under this Act.**

(2)**The method of recruitment, the salary and allowances payable to and the terms and conditions of service of the officers and other employees of the Authority appointed under sub-section *(1),* shall be such as may be prescribed.**

Chairperson, members, officers and other employees of the Authority to be public servants.

12. The Chairperson, members, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of sub-section *(2)* of section 28 of the Bharatiya Nyaya Sanhita, 2023.

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Functions of the Authority.

13. *(1)* The Authority shall perform the following functions including, but not limited to —

(a) formulation of draft guidelines for fair tendering and contracting processes in public works, which shall include provisions for:

(i) examining the technical and financial capability of tender applicants;

(ii) ensuring that tenders are awarded based on merit, transparency, and efficiency;

(iii) standard contract formats and stipulated timelines for various types of public works;

(iv) promoting the participation of small and medium enterprises in public works; and

(v) ensuring that due process laid down under section *4* of this Act shall be followed scrupulously while inviting, processing and granting tenders for public works.

(b) draft and periodically update quality guidelines for public works, which shall cover:

(i) specifications for materials, construction techniques, and safety standards;

(ii) mandatory inspection and certification at various stages of project execution; and

(iii) quality control and assurance processes, with an emphasis on durable and sustainable infrastructure development.

(c) formulate rules for the geotagging and real-time monitoring of public works projects and ensure that every public body timely

transmits the geotagged photographs, as required under section 7 of this Act, to the Authority;

(d) advise the Central Government on policies and measures for promoting transparency, accountability, and quality in public works; and

(e) investigate complaints, disputes, or grievances concerning public works and cases of violation of any of the provisions of the Act and rules and regulations made there under and take necessary action.

(2) The Authority, while discharging the functions under sub-clause *(e)* of sub-section *(1),* shall have the power to summon and examine witnesses, review documents, and issue orders for compliance, correction, or imposing penalty, as deemed necessary.

Powers of the Authority.

14. *(1)* The Authority shall have the powers of a civil court under the Bharatiya Nagarik Suraksha Sanhita, 2023, while discharging its functions in matters related to public works under this Act, specifically to: 46 of 2023.

(a) summon and enforce the attendance of any person;

(b) require the discovery and production of documents;

(c) receive evidence on affidavits;

(d) requisition any public record or copy thereof from any court or office;

(e) issue commissions for the examination of witnesses or documents; and

(f) conduct inquiries and inspections into matters concerning public works.

(2) The Authority shall have the power to initiate proceedings for non-compliance of its orders.

Appeal and review.

15. *(1)* Any person aggrieved by a decision or an order of the Authority may file an appeal to the Supreme Court within a period of sixty days from the date of such decision or order.

Provided that the Supreme Court may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) The decision of the Supreme Court on the appeal shall be final and binding.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

16. The Central Government may, after due appropriation made by Parliament in this behalf, make to the Authority, grants and loans of such sums of money, as it may consider necessary, for carrying out the purposes of this Act.

Accounts and audit.

17. *(1)* The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall

be payable by the respective Authority to the Comptroller and Auditor-General of India.

(3) The accounts of the Authority, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Authority, who shall cause the accounts along with the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

Annual report.

18. *(1)* The Authority shall prepare once in every year, in such form and at such time as may be prescribed by the Central Government, an annual report giving a summary of all its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(2) The Central Government shall cause a copy of the report received under sub-section *(1)*to be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER V

PENALTIES

Penalties for non-compliance.

19. *(1)* Any contractor, government officer, or public body found to be in violation of any of the provisions of this Act or the rules and regulations made thereunder or the directions or orders or guidelines issued by the Authority, shall be liable to be punished with a fine not exceeding rupees ten lakh for each such violation.

(2) In case of repeated violations, the Authority may recommend the suspension or blacklisting of contractors or, as the case may be, initiation of disciplinary proceedings against the concerned officers, as per the relevant rules applicable to such officer.

Offences by companies.

20. *(1)* Where an Offence under this Act has been committed by a company, every person who, at the time, the offence was committed was in charge of, or 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:

Provided that nothing contained in this sub-section, shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he had 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 anybody corporate and includes a firm, or other association of individuals; and

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

Crediting sums realised by way of penalties to the Consolidated Fund of India.

21. All sums realized, by way of penalties, imposed by the Authority, shall be credited to the Consolidated Fund of India.

CHAPTER VI

MISCELLANEOUS

Responsibilities of the Central Government.

22. *(1)* The Central Government shall—

(a) ensure that all public works under their jurisdiction comply with the provisions of this Act and the directions or guidelines issued by the Authority from time to time.

(b) ensure that e-tendering is scrupulously followed for all public works projects and that public disclosures, including tender documents, project timelines, and status updates, are carried out as laid down under the Act and made available as required by the Authority.

(c) allocate necessary resources for the proper monitoring, implementation, and enforcement of quality standards in public works.

Protection of action taken in good faith.

23. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any officer of the Central Government or any member, officer or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Power to remove difficulties.

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

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

Power to make rules and regulations.

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

(2) The Authority may, with the previous sanction of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(3) Every rule and every regulation made by the Central Government and the Authority 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

This legislation represents a major step forward in the governance of public works in India, with the goal of establishing a framework that prioritizes transparency, accountability, and quality in infrastructure initiatives. It tackles long-standing challenges in public works and fosters a culture of integrity in resource management. A key component of this initiative is the creation of an independent Public Works Quality Assurance and Transparency Authority, which will possess powers of a civil court to enforce compliance and impose penalties for any violations. This Authority will ensure that standards and regulations in public works are strictly followed. The legislation also highlights the necessity of standardizing tendering processes and quality control measures to eliminate inefficiencies and enhance project outcomes, thereby increasing stakeholder confidence. Moreover, it acknowledges the importance of technology in improving oversight and management of public works. By advocating for advanced tools for real-time monitoring, the legislation seeks to provide timely updates on project progress and quality, facilitating early detection of issues and reducing delays or cost overruns. Additionally, the legislation promotes public involvement in the oversight of public projects.

Hence, this Bill.

AJEET MADHAVRAO GOPCHADE

FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for the establishment of the Public Works Quality Assurance and Transparency Authority and Clause 9 of the Bill provides for the composition of the Authority. Clause 10 provides for the salary and allowances of the Chairperson and members of the Authority, whereas Clause 11 provides for the appointment of officers and other employees of the Authority and the salary and allowances payable to them. Clause 16 of the Bill provides that the Central Government shall after due appropriation by Parliament, make grant and loans of such sums of money to the Authority, as it may deem necessary for carrying out the purposes of the Bill. Clause 21 of the Bill provides that all sums realized by way of penalties by the Authority shall be credited into the Consolidated Fund of India.

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 DELEGATEDLEGISLATION

Clause 24 of the Bill empowers the Central Government to make provisions by an order to remove any difficulties that might arise in giving effect to any of the provisions thereof. Clause 25 of the Bill empowers the Central Government to make rules and the respective Authority to make regulations for carrying out the purposes 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.

XXIX

Bill No. LXIII of 2024

A Bill further to amend the Fiscal Responsibility and Budget Management Act, 2003.

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 Fiscal Responsibility and Budget Management (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 2.

2. In section 2 of the Fiscal Responsibility and Budget Management Act, 2003 (hereinafter referred to as the principal Act), clause (*bb*) shall be omitted. 39 of 2003.

Omission of section 4.

3. Section 4 of the principal Act shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Section 4 of the Fiscal Responsibility and Budget Management Act, 2003 (39 of 2003) inserted through Part XV of the Finance Act, 2018 (13 of 2018), apparently, interferes with the finances of the States by—

(i) imposing a Net Borrowing Ceiling (NBC) on the States in the manner deemed fit by the Central Government, which limits borrowings from all sources including open market borrowings;

(ii) further reducing the Net Borrowing Ceiling by including aspects into the "borrowing" of the States which, otherwise, are not "borrowings" as contemplated under article 293 of the Constitution by—

(a) by deducting liabilities arising from the Public Account of the States to arrive at the NBC; and

(*b*) by deducting the borrowings by State owned enterprises where the principal and/or interest is serviced out of the budget or where such borrowings are made to finance schemes announced by the States, to arrive at NBC.

(iii) imposing conditions in the exercise of powers under article 293(3) read with article 293(4) which has the effect of curtailing the exclusive constitutional powers of the States.

The above provision stands in the way of fiscal federalism as it restrains the budgetary decisions of the State Governments. The proposed amendment seeks to ensure that control of State finances are not done by the Central Government.

The task of controlling the Public Debt of the States falls within the exclusive domain of the States under List II of the Seventh Schedule to the Constitution. The wide definition of 'general Government Debt' as provided in Section 2 (bb) of the Fiscal Responsibility and Budget Management (FRBM) Act, 2003, introducing the concept of combined debt of the Central Government and State Governments and the endeavour to ensure that it does not exceed sixty per cent under fiscal management principles, is apparently *ultra vires* the Constitution. It is therefore proposed to omit clause (bb) of section 2 and also section 4 from the FRBM Act, 2003, in order to uphold the values of fiscal federalism.

Hence, this Bill seeks to achieve the above objectives.

A.A. RAHIM

XXX

Bill No. LXII 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 Part III of the Constitution, after article 21A, the following new article shall be inserted, namely:— Insertion of new article 21B.

"**21B.** *(1)* The State shall endeavour to protect, preserve and restore the right to a safe, healthy and sustainable climate of all citizens, in such manner as the State may, by law, determine. Right to safe, healthy and sustainable climate.

(2) The State shall take all appropriate measures to mitigate and adapt to climate change and provide relief and rehabilitation to those adversely affected by climate change for the realisation of the right guaranteed under clause *(1).".*

Amendment of the Seventh Schedule.

3. In the Seventh Schedule to the Constitution, in List III – Concurrent List, after entry 17B, the following new entry shall be inserted, namely:—

"**17C.** Climate change mitigation and adaptation."

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to address the urgent need for a constitutional guarantee recognizing the right to a safe, healthy and sustainable climate in India. The concept of the "right to compensation" in the context of climate change and environmental degradation is increasingly recognized across the world as a critical aspect of right to safe, healthy and sustainable climate. This right, guaranteed by the Constitution of India under its Part III, is relevant considering the adverse effects of climate change on individuals and communities, especially those who are vulnerable. Thus, the background of this amendment is rooted in the emerging climate crisis, increasing recognition of the human rights implications of climate change, as highlighted by various international agreements and judicial observations. The key principles upon which the Bill is structured are as follows:

1. Emerging Climate Crisis: Climate change is an important issue being dealt with by countries and communities over the past few decades. This issue of Climate Change is rapidly turning to a climate crisis. Climate induced disasters such as cyclones, floods, droughts, forest fires, landslides and coastal erosion are all visiting humanity with increasing frequency and intensity. Climate change also causes slow onset challenges such as shifting agriculture, new diseases, rising sea level and climate induced migration. These are causing loss and damages to property, environment and human lives. India with its large landscape, range of ecosystems, large population and high economic vulnerability is highly exposed to the dangers of this emerging crisis.

2. Human Rights and Climate Change: The UN Guiding Principles on Business and Human Rights emphasize that both States and businesses have responsibilities to uphold human rights in relation to environmental impacts. This includes accountability for negative consequences arising from their activities and a shared responsibility to remedy these impacts.

3. Global Agreements: The Paris Agreement, established during COP21, represents a significant commitment by countries to work collaboratively to reduce greenhouse gas emissions and limit global temperature rise. It acknowledges the connection between climate change and human rights, particularly the need to protect vulnerable populations and ensure a sustainable future for coming generations.

4. Judicial Recognition: The Hon'ble Supreme Court of India, in the case of *Ranjithsinh and Others* v. *Union of India*, recognized that violations of the right to a healthy environment can affect various rights, including the right to life and health. The Hon'ble Supreme Court noted the absence of comprehensive legislation addressing climate change in India, despite existing policies acknowledging its adverse effects. It highlighted the necessity to articulate a distinct right against the adverse effects of climate change, linking it to the right to a clean environment as enshrined in Articles 14 (right to equality) and 21 (right to life) of the Indian Constitution.

5. Loss and Damages from Climate Change: Climate change is causing massive economic losses in addition to loss of property, environment and human life. The Conference of Parties of the UN Framework Convention on Climate Change, which met for its 27th Conference of Parties in Sharm al Sheikh, agreed to set up a global fund for supporting countries affected by these impacts with a loss and damages fund.

6. Need for Legislative Action: As the impact of climate change become increasingly severe, there is a pressing need for legislative measures that explicitly protect the right to a safe, healthy and sustainable climate. This will ensure that the country will be able to take proactive measures to minimise climate change, deal with the challenges caused by climate change and benefit from the global financing mechanisms for damages and losses resulting from climate change.

The proposed amendment aims to empower the State to take proactive steps in preserving and restoring a healthy climate, as well as providing relief and rehabilitation for those adversely affected by climate change.

Thus, the background of the amendment is characterized by a growing recognition of the intersection between human rights and environmental sustainability, the need for legal frameworks to address these issues, and the imperative for immediate action to protect vulnerable populations from the impacts of climate change.

The Bill seeks to achieve the above-said objectives.

A. A. RAHIM

XXXI

Bill No. LXXIV of 2024

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

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 Right of Children to Free and Compulsory Education (Amendment) Act, 2024.

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

Insertion of new Chapter IIA.

35 of 2009.

2. After Chapter II of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the principal Act), the following new Chapter shall be inserted, namely: —

CHAPTER II-A

RIGHT TO PLAY

Right of child to play.

5A. *(1)* Every child of the age of six to fourteen years, including a child referred to in clause *(d)* or clause *(e)* of section *2*, shall have the right to play and engage in age-appropriate physical activities within the school premises or in the playground designated for the purpose by the appropriate Government.

(2) Every school shall have a playground with an extent of not less than one hundred square metres for the purposes as specified in sub-section *(1)*.

(3) In case of a school not having a playground as required under sub-section *(2)*, the appropriate Government shall designate a playground accessible to the children of such a school, within a radius of 5 kms. from the premises of such school.".

Amendment of section 8.

3. After sub-clause *(d)* of Section 8 of the principal Act, the following new sub-clause shall be inserted, namely: —

"(da) ensure designation of a playground, as specified under sub-section *(3)* of section 5A, for such schools not having a playground with the stipulated extent within its premises."

STATEMENT OF OBJECTS AND REASONS

Playing is an integral part of a child's life. Playing improves motor, cognitive, social and emotional skills of children. Playing has major role to play in shaping a child's mental health. Right to play is an internationally recognized right of a child. Right to play is enshrined in the United Nations Convention on the Rights of the Child. UNICEF has started commemorating June 11 as the first-ever International Day of Play (IDOP), following the adoption of a UN resolution for a day centred around play. As such, it is imperative to recognize the above right as a statutory right in India.

The Bill proposes to insert a new Chapter in the Right of Children to Free and Compulsory Education Act, 2009 to recognize the Right of a Child to Play and for the provision of playgrounds in all schools or in designated spaces near to such schools, which do not have playgrounds to ensure that this right is upheld.

The Bill seeks to achieve the above objectives.

A.A. RAHIM

XXXII

Bill No. LXIX of 2024

A Bill to provide for the promotion and development of the Makhana (fox nut) industry, predominantly cultivated and produced in the State of Bihar, by constituting a Makhana Board, and mandatory declaration of Minimum Support Price of Makhana 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

Short title and commencement.

1. (*1*) This Act may be called the Makhana (Fox Nut) Industry (Promotion and Development) Act, 2024.

(*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) "advisories" means non-binding standards and guidance issued by the Board for promotion and development of the Makhana industry;

(b) "Board" means the Makhana Board established under section 3 of this Act;

(c) "Chairperson" means the Chairperson of the Board appointed under clause (a) of sub-section (4) of section 3 of this Act;

(d) "directions" means binding standards and guidance issued by the Board for promotion and development of the Makhana industry;

(e) "Fund" means the Makhana Promotion and Development Fund constituted under section 14;

(f) "grower" means the owner of a Makhana cultivation, and includes any agent of such owner, and mortgagee, lessee or any other person in actual possession of such Makhana cultivation;

(g) "makhana" means the seed of the aquatic Makhana plant, primarily cultivated in ponds, wetlands, and other water bodies and includes, —

(i) raw makhana – the unprocessed, natural seeds harvested from the plant; and

(ii) processed makhana – the puffed, edible form of Makhana obtained after processing through roasting or other techniques for human consumption or commercial use, including any by-products derived thereof.

Explanation.— "Makhana plant" means the aquatic plant *Euryale ferox;*

(h) "makhana industry" means the industry engaged in the production, manufacture, export, supply, trade and commerce of Makhana or its bye-products;

(i) "member" means a member of the Board appointed under sub-section *(4)* of section 3 of this Act;

(j) "Minimum Support Price" means the price announced by the Central Government, on the recommendation of the Commission for Agricultural Costs and Prices, for a particular agricultural commodity, to ensure that farmers receive a remunerative price for their produce;

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

(l) "small grower" means a grower the size of whose cultivation does not exceed two hectares;

(m) "specified" means specified by regulations made by the Board under this Act; and

(n) "worker" means any person who works in Makhana cultivation excluding the grower.

CHAPTER II

THE MAKHANA BOARD

Establishment and constitution of the Makhana Board.

3. ***(1)*** **With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted, for the purposes of this Act, a Board, to be called the Makhana Board.**

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name, sue and be sued.

(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 or agencies at other places in or outside India, as deemed necessary.

(4) The Board shall consist of the following members, namely: —

(a) **a Chairperson to be appointed by the Central Government in such manner as may be prescribed**;

(b) three Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States;

(c) three members to be appointed by the Central Government, in such manner as may be prescribed, to represent respectively the Ministries of the Central Government dealing with –

(i) Commerce;

(ii) Agriculture; and

(iii) Finance;

(d) **five members to represent major Makhana producing States, to be appointed by the Central Government, in such manner as may be prescribed**:

Provided that at least two Members shall be from the State of Bihar.

(e) **ten members to represent the growers, workers and exporters in the Makhana industry, to be appointed by the Central Government, in such manner as may be prescribed**:

Provided that every appointment under clauses (d) and (e) shall be made on the recommendation of the State Government or, as the case may be, of the Union territory concerned:

Provided further that four Members of this category shall be from the State of Bihar.

(f) five members, to represent such institutes or authorities having specialisation in research in the Makhana industry, agriculture, foreign trade, packaging and food safety, to be appointed by the Central Government in such manner as may be prescribed.

(5) The qualifications for appointment of the Chairperson and other members of the Board and the manner of filling of vacancies of the members of the Board shall be such as may be prescribed.

(6) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made by the Board under this Act.

Terms of office and conditions of service of the Chairperson and members.

4. ***(1)*** **The term of office of, salaries, remuneration or other allowances payable to, and the other conditions of service of, the Chairperson and other members of the Board shall be such as may be prescribed.**

(2) The office of member of the Board shall not disqualify its holder for being chosen as or for being a Member of either House of Parliament.

(3) A member may resign his office by giving notice thereof in writing to the Central Government and on such resignation being accepted, he shall be deemed to have vacated his office.

Vacancies not to invalidate proceedings.

5. No act or proceeding of the Board shall be invalid merely by reason of:

(a) any vacancy in, or any defect in the constitution of, the Board;

(b) any defect in the appointment of a person as Chairperson or member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Chairperson to preside over meetings.

6. *(1)* The Chairperson shall preside over the meetings of the Board, and without prejudice to any provision of this Act, exercise and discharge such other powers and functions of the Board as may be prescribed.

(2) In the absence of the Chairperson in a meeting, the Board may elect any member who is present to preside over such meeting.

(3) The Chairperson shall, in addition to presiding over the meetings of the Board, exercise and discharge such other powers and duties, as may be delegated to him by the Board and/or as may be prescribed.

Committees, officers and staff of the Board.

7. ***(1)*** **The Commission may constitute such advisory or executive Committees and appoint such officers and staff as it deems necessary for the efficient discharge of its functions under this Act.**

(2) **The method of recruitment, the salary and allowances payable to and terms and conditions of service of the officers and staff, so appointed under sub-section *(1)*, shall be such as may be prescribed.**

Members, officers and employees of the Board to be public servants.

8. All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of sub-section *(2)* of section 28 of the Bharatiya Nyaya Sanhita, 2023. 45 of 2023.

CHAPTER III

FUNCTIONS AND OBJECTIVES OF THE BOARD

Functions of the Board.

9. *(1)* The Board shall be responsible for the promotion and development of the Makhana industry in the country.

(2) Without prejudice to the generality of sub-section *(1),* the Board shall —

(a) take such steps as it deems necessary in order to achieve the objectives enlisted under section 11;

(b) monitor the export, and price of Makhana and propagate data and other information regarding the demand for and marketability of Makhana in the country and in the foreign market;

(c) render scientific and technical advice aimed at improving the production, manufacture, supply and distribution of Makhana;

(d) **undertake, assist and encourage scientific, technological and economic research in the area of Makhana production;**

(e) collect statistics from stakeholders in the Makhana industry;

(f) **plan and implement human resource training and skill development in line with the needs of Makhana industry;**

(g) take steps either by itself or through accredited agencies to maintain quality standards for Makhana produced in the country;

(h) collaborate and cooperate with national scientific and economic bodies for the benefit of the Makhana industry;

(i) collaborate and cooperate with Departments of the Central or State Governments on all matters relating to the promotion and development of Makhana industry;

(j) protect the intellectual property rights of indigenous varieties of Makhana in the country;

(k) advise the Central Government on all matters relating to the promotion and development of the Makhana industry, including but not limited to the marketing within the country and export of Makhana;

(l) advise the Central Government on the declaration of Minimum Support Price for Makhana;

(m) provide advisory services on matters including but not limited to research, testing and training in the field of Makhana cultivation and development to such other class of persons upon the payment of such fee or other charges as may be specified;

(n) formulate incentive schemes for the Makhana industry;

(o) **provide financial assistance to growers and workers in Makhana industry, wherever required;**

(p) fix grades, specifications and standards for makhana and its products;

(q) **conduct seminars, workshops, research activities and other programmes for the development and promotion of Makhana**

industry in the country; and

(r) such other measures as may, having regard to the purposes of this Act, be prescribed by the Central Government in the interest of Makhana industry.

Declaration of Minimum Support Price.

10. The Central Government shall, in consultation with the Board constituted under section 3,before the commencement of each financial year,by order published in the Official Gazette, fix the Minimum Support Price of raw makhana produced in the country.

Objectives of the Boar

11. The Central Government and the Board, as the case may be, while exercising its powers, discharging its functions, or undertaking any other activity under this Act shall be guided by the following objectives for optimisation of the production, sale and consumption of Makhana, which may include, –

(a) promoting the export of Makhana;

(b) promoting the sale and trade of Makhana through e-commerce platforms;

(c) improving the quality of Makhana cultivated in the country for consumption in the country and for export;

(d) promoting branding, product diversification, value addition, packaging and furthering the interests of stakeholders involved in the Makhana industry;

(e) promoting sustainable cultivation and increasing production and productivity of Makhana;

(f) providing support and encouragement to small growers for using and implementing new technology in Makhana cultivation;

(g) recommending fair and remunerative prices for Makhana growers;

(h) safeguarding the interests of Makhana workers; and

(i) increasing awareness amongst the general public about the Makhana industry in the country.

Registration.

12. *(1)* Every person engaged in the cultivation of Makhana in water bodies, whether such water bodies are comprised in one location or multiple locations and whether they are situated wholly or partly in India, shall, within one month from the date of commencement of this Act or from the date on which the water body is brought under Makhana cultivation, whichever is later, apply to the Board constituted under section 3, for registration as a cultivator in respect of each water body owned or utilized by them for Makhana cultivation, in such form and manner and on payment of such amount of fee for the purpose, as may be specified.

(2) The certificate of registration shall be issued or rejected by the Board after due verification in such manner and within such period as may be specified:

Provided that the certificate of registration shall be deemed to have been issued after the expiry of the period so specified, if no deficiency has been communicated to the applicant within that

period:

Provided also that the reasons for rejection of the application for registration shall be duly conveyed to the applicant in writing by the Board and the applicant shall be given an opportunity to be heard before taking a final decision in the matter.

(3) A registration once made shall remain in force until it is cancelled by the Board, either upon the application of the cultivator or for non-compliance with the provisions of this Act, or any other reason as deemed appropriate by the Board.

Issuance of direction and advisories by the Board.

13. For the purposes of this Act, the Board may issue directions or advisories to stakeholders and such other persons in the Makhana industry or any class thereof, as it may deem fit:

Provided that every direction issued shall be complied with by any person engaged in the Makhana industry to who such direction has been issued, failing which the Board shall disqualify the violator of the direction from the benefits under the Act.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Grants and loans by the Central Government.

14. The Central Government may, after due appropriation made by Parliament by law, in this behalf, make to the Board, grants and loans of such sums of money as it may consider necessary for carrying out the purposes of this Act.

Makhana Promotion and Development Fund.

15. ***(1)*** **The Board shall constitute a Fund to be called the Makhana Promotion and Development Fund and there shall be credited thereto —**

(a) all sums transferred to or vested in the Board;

(b) any grants and loans made to the Board by the Central Government under section 14;

(c) all fees levied and collected in respect of certificates of registration issued under section 12 and any other fees or charges collected under this Act or the rules made there under; and

(d) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(2) **The Fund shall be applied to:**

(a) **meet the salary, pension, remuneration and other allowances of the members, officers, and staff of the Board as applicable;**

(b) **meet the expenses relating to such measures as the Board may undertake under this Act from time to time in order to achieve the objectives enlisted in section 11, and in exercise of its general powers and functions under section 9;**

(c) **meet the other administrative expenses of the Board and any other expenses authorised by or under this Act;**

(d) **repayment of any loans; and**

(e) **settle any liabilities arising out of legal proceedings.**

Borrowing powers of the Board.

16. ***(1)*** **The Board may, from time to time, with the previous sanction of the Central Government and under such conditions as may be prescribed, borrow any sum required for any of the purposes for which it is authorised to expend under this Act, from: –**

(a) **any bank or other financial institution by taking loan; or**

(b) **the public by issue or sale of bonds or debentures or any such instrument, carrying interest at such rates as may be specified therein, in the form and manner approved by the Central Government.**

(2) **The Central Government may guarantee the repayment of the monies borrowed by the Board under sub-section *(1)* and the payment of interest thereon and other incidental charges.**

Budget and audit.

17. *(1)* The Board shall prepare in such form and manner, at such time of each financial year, and such intervals, as may be prescribed, its budget, showing the estimated receipts and expenditure and forward the same to the Central Government.

(2) The accounts of the Board shall be audited by the Controller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General.

Annual report.

18. *(1)* The Board shall prepare, in such form and manner and at such time of each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government.

(2) The annual report prepared under sub-section *(1)* shall contain: –

(a) a description of all the activities of the Board for the previous year;

(b) the plan of the Board for the upcoming year; and

(c) any such other details as may be provided under any law for the time being in force.

(3) The Central Government shall cause the annual report under sub-section *(1)* along with the audited accounts of the Board to be laid, as soon as may be after they are received, before each House of Parliament.

CHAPTER V

MISCELLANEOUS

Protection of action taken in good faith.

19. No suit, prosecution or other legal proceedings shall lie against the Central Government, or the Board, or any officer, or any member of the Board, or any employee thereof, for anything which is done or intended to be done in good faith under this Act or the rules or regulations made, or standards notified thereunder.

Power to make rules.

20. The Central Government may, in consultation with the Board, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make regulations.

21. The Board may, with the approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

Rules and regulation to be laid before Parliament.

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

Power to remove difficulties.

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

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

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

Act to have overriding effect.

24. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS

Apart from India, Makhana (Fox Nut) is grown in Russia, Korea and Japan. In India, Makhana is cultivated and naturally grown in Bihar, West Bengal, Madhya Pradesh, Rajasthan, J&K, Tripura and Manipur. However, Makhana is native to Bihar and is being cultivated there for at least 1000 years. Bihar produces 10,000 tonnes of Makhana per annum, which is 90 per cent. of the production in the country. The Makhana industry is worth 3000 crore rupees. India contributes to 80 per cent. of the world's Makhana demand. Makhana is harvested in more than 15000 hectares in Bihar and around 5 lakhs families mostly from Mallah community are involved in the processing of Makhana. Nine districts in the Mithila region of Bihar are pre-dominant in the cultivation and production of Makhana, *i.e.,* Dharbanga, Madhubani, Purnia, Katihar, Saharasa, Supaul, Araria, Kishanganj and Sitamarhi.

It took four years of sustained campaigning by researchers, entrepreneurs and farmers to get the coveted GI tag for Mithila Makhana. The farmers of Mithila region cultivate GI tagged Makhana but are from very poor background. The international wholesale price of Makhana is 8000 rupees per Kg. However, it was only 1000 rupees per Kg. ten years ago and the current domestic price is around 1500 rupees per Kg. Makhana has a very high international and domestic demand, being a very good source of vegetarian protein containing five of the nine Amino Acids, particularly as a substitute for animal-based protein. Makhana is a superfood now, because of its nutritious properties.

Popping is a process wherein lotus seeds are roasted and the shell is removed to get Makhana. Makhana growers are facing a lot of difficulties particularly in popping work as it is being done manually. Some mechanical units are there but outside the State which involve a lot of investment and risk. The farmers do not have the wherewithal and logistics to stock or trade. The farmers are not wealthy but traders can bear the logistic costs and take huge margins. There is very little Government support to the Makhana growers who need financial assistance to survive. Further in view of the hardships faced by growers there has been a consistent demand for minimum support price for Makhana without which the sector would not survive. It is, therefore felt that like many commodities and other Boards, a Board for Makhana Development and Promotion may be constituted to holistically look after the Makhana industry. Further, there should also be a provision for Minimum Support Price to sustain the industry.

Hence this Bill.

A.D. SINGH

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of the Makhana Board and for the appointment of the Chairperson and other members of the Board. Clause 4 *inter alia* provides for the term of office of, salaries, remuneration or other allowances payable to, and the other conditions of service of, the Chairperson and other members of the Board. Clause 7 provides for the constitution of advisory or executive committees, appointment of officers and staff of the Board, as it deems necessary and the salaries and allowances payable to such officers and staff. Clause 9 lays down the functions of the Board inter alia including assistance and encouragement to scientific, technological and economic research in the area of Makhana production; planning and implementing human resource training and skill development in line with the needs of the Makhana industry; providing financial assistance to growers and workers in the Makhana industry and conducting seminars, workshops, research activities and other programmes for the development and promotion of the Makhana industry. Clause 14 provides that the Central Government may make grants and loans of such sums of money to the Board, as it may consider necessary, to enable the Board to carry out the purposes of the Bill. Clause 15 provides for the constitution of a Fund called the Makhana Promotion and Development Fund, the credit of monies thereto and the purposes for which the Fund shall be utilised. Clause 16 empowers the Board to borrow money from certain institutions, for the repayment of which the Central Government shall be a guarantor.

The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees one hundred crore per annum is likely to be involved from the Consolidated Fund of India. A non-recurring expenditure of about rupees twenty-five crore is also likely to be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 20 and 21 of the Bill empowers the Central Government and the Makhana Board, with the approval of the Central Government, to make rules and regulations respectively, for carrying out the purposes of the Bill. Clause 23 empowers the Central Government to make such provisions through an order for removing any difficulty that might arise in giving effect to the provisions of the Bill.

As the matters in respect of which rules or regulations or orders may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

XXXIII

Bill No. I of 2025

A Bill further to amend the Constitution of India.

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

1. *(1)* This Act may be called the Constitution (Amendment) Act, 2025. Short title and commencement.

(2) It shall come into force immediately.

2. In article 293 of the Constitution, for clause *(4)*, the following shall be substituted, namely:- Amendment of article 293.

"(4) A consent under clause (3) may be granted subject to such conditions, if any, as the Government of India may think fit to impose.

Provided that the Government of India while imposing any condition under this clause shall ensure that —

(i) restrictions are reasonable and do not unduly hamper a State's ability to manage its finances effectively in view of the financial autonomy given to States;

(ii) there is well defined consultation process with State Governments before prescribing any conditions on borrowing;

(iii) there is equitable treatment so that the borrowing terms and restrictions are applied uniformly for all States; and

(iv) transparency is maintained in decision-making thereby ensuring that the procedures and standards for accepting or rejecting governmental borrowings are transparent to the public."

STATEMENT OF OBJECTS AND REASONS

Part XII of the Constitution deals with the borrowing powers of the Centre and States. Article 292 speaks about the borrowing power of the Central Government which entitles the Central Government to borrow loans upon the security of the Consolidated Fund of India. Article 293(1) empowers the State Government to borrow within the territory of India upon the security of the Consolidated Fund of the State. In both cases, the extent of borrowing may be fixed from time to time by a law enacted by Parliament and the State legislature, respectively. As per Article 293(2), the Central Government may grant loans to any State subject to conditions laid down by any law made by Parliament up to the limits fixed under Article 292. Article 293(3) imposes a restriction on the State government borrowings if the repayment of loans or a guarantee which has been given by the Government of India is still outstanding. In this case, the consent of the Central Government is essential to raise such a loan. The Central Government under article 293(4) has been given wide discretion over consent by specifying that permission to raise such loan be granted subject to any conditions as the Central Government deems appropriate.

In view of the transforming economic, political, and fiscal landscape in India, it is time to revisit Article 293 of the Constitution. Article 293 emanates from Section 163(4) of the Government of India Act, 1935. Section 163(4) of the Government of India Act, 1935 warns the unnecessary refusal or delaying or the imposing of conditions in granting loans by the Centre.

Therefore, there is a need to amend Article 293 of the Constitution in the manner to ensure that there must be proper norms which are to be followed to when the Centre exercises the wide powers granted under Article 293(4) of the Indian Constitution which is crucial in maintaining a balanced fiscal framework between the Centre and the States, and which enhances cooperative federalism. In such absence, there could be decision-making that may disrupt fiscal discipline, leading to either unchecked borrowing or overly restrictive conditions. While exercising the wide powers granted under Article 293(4), the Centre should adhere to ensuring consultative process with States; equitable treatment in applying borrowing terms and imposing restrictions; transparency in procedures and standards for accepting or rejecting governmental borrowings and financial autonomy of the State. Adhering to these norms can ensure that the Centre's powers under Article 293(4) are exercised fairly, transparently and in a manner that supports balanced fiscal management and cooperative federalism.

Hence, this Bill.

A.D. SINGH

XXXIV

Bill No. LXVII of 2024

A Bill to amend the Code on Social Security, 2020.

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 Code on Social 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 15.

2. In section 15 of the Code on Social Security, 2020 (hereinafter referred to as Code), in sub-section *(1)*, in clause *(b)*, in sub-clause *(iii)*, the following provisos shall be inserted, namely: — 36 of 2020

"Provided that notwithstanding anything contained in any other provision of this Code, the minimum monthly pension under the Employees' Pension Scheme shall be at such rates as may be prescribed by the Central Government from time to time, which shall, in any circumstances whatsoever, be not less than nine thousand rupees;

Provided further that nothing contained in the preceding proviso shall be applicable to an employee unless he has been a member of the Employees' Pension Scheme for not less than ten years or superannuates on attaining the age of fifty-eight years."

Amendment of section 16.

3. In section 16 of the Code, in sub-section *(1),* in clause *(b),* —

(a) in sub-clause *(iii*), the following provisos shall be inserted, namely:—

"Provided that the contribution by the Central Government to the Pension Fund, shall not be less than eight and one-third per cent of the wages of the members of the Employees' Pension Scheme.

Provided further that the Central Government shall, in addition to its existing contribution obligations under other provisions, contribute such sums at such rates to the corpus of the Pension Fund, as may be necessary to meet the short fall, if any, for the payment of minimum monthly pension of nine thousand rupees to the eligible members of the Employees' Pension Scheme.

Provided also that the Central Government shall, in addition to its existing contribution under other provisions, contribute to the Pension Fund, at the rate of 1.16 per cent of the employees' actual salary to the extent that such salary exceeds fifteen thousand rupees per month, or at such amounts and higher rates, as may be notified from time to time, to ensure seamless disbursement of higher pension to the members of the Employees' Pension Scheme, commensurate with their actual salary drawn while in service.

(b) after sub-clause *(iii),* the following new sub-clauses shall be inserted, namely: —

"(iv) such sums as the employee may voluntarily contribute from his salary to the Pension Fund at his own volition, over and above the employee's contribution towards the Provident Fund referred to in clause *(a)* of sub-section *(1).*

Provided that every contribution payable under this section shall be calculated to the nearest rupee, fifty paise or more to be counted as the next higher rupee and fraction of a rupee less than fifty paise to be ignored.

(v) The pensionable salary shall be the average actual monthly pay drawn in any manner including on piece rate basis during contributory period of service in the span of twelve months immediately preceding the date of exit from the membership of the Pension Fund plus the voluntary contribution by the employees to the Pension Fund referred to in sub-clause *(iv)* above;

Provided that if a member was not in receipt of full wages during the period of twelve months preceding the day, he ceased to be the member of the Pension Fund, the average of previous twelve months full pay drawn by him during the period for which contribution to the Pension Fund was

recovered, shall be taken into account as pensionable salary for calculating pension;

Provided further that if during the said span of twelve months there are non-contributory periods of service including cases where the member has drawn salary for a part of the month, the total wages during the twelve months span shall be divided by the actual number of days for which salary has been drawn and the amount so derived shall be multiplied by thirty to work out the average monthly pay;

Provided further that there shall be no ceiling on the maximum pensionable salary for employees, nor any restriction on joining the Pension Scheme based on their salary or date of joining the service, and the pension shall be computed on the basis of the actual wages drawn during the period of twelve months preceding the day the employee ceased to be the member of the Pension Fund and by also reckoning the voluntary contribution, if any, by the employee to the Pension Fund as referred to in sub-clause *(iv)* above;

Provided also that, for the members of the Pension Fund who retire upon attaining the age of fifty-eight years, or have rendered twenty years or more of pensionable service, the pensionable service shall be increased by a weightage of two years, or by such higher periods as may be notified by the Central Government from time to time, and the weightage shall be computed on the basis of the pensionable salary immediately preceding the date of exit from membership of the Pension Fund;

Provided also that the members of the Employees' Pension Scheme shall be entitled to receive Dearness Allowance and periodic revisions of pension at such rates and intervals as may be notified by the Central Government, based on fluctuations in the Consumer Price Index (CPI), for the purpose of mitigating the effects of inflation and addressing the rising cost of living;

(vii) The amount of monthly pension shall be computed in accordance with the following factors, namely: —

Monthly Member's pension = (Pensionable salary x Pensionable service) / 50

Provided that the computation of pension shall be subject to the minimum pension referred to in sub-clause *(iii)* of clause *(b)* of sub-section *(1)* of section 15 of the Code."

Amendment of the Fifth Schedule.

4. In the Fifth Schedule of the Code, in part B under the heading 'MATTERS THAT MAY BE PROVIDED FOR IN THE PENSION SCHEME', after entry 2, the following new entry shall be inserted, namely: —

"2A. The manner in which the employees' contribution referred to in sub-clause *(iv)* of clause *(b)* of sub-section *(1)* of section 16 shall be credited to the Pension Fund and its rate of return."

STATEMENT OF OBJECTS AND REASONS

Work force in establishments, unorganised sectors, gig workers and platform workers are playing a key role in the economic advancement of our country. Their toil & sweat is the prime fuel which propels our economy; yet we, more often than not, ignore them and their contributions, knowingly or unknowingly. It is they who till the land, work in the mines and factories, teach our children, manage financial institutions, drive trucks and what not during their heydays. They are the wealth creators of our country. Therefore, we, as a nation, should give them ample care and protection during their autumn years.

The Code on Social Security, 2020 [Act No. 36 of 2020] (hereinafter referred to as the 'Code') received the assent of the President on 28.09.2020. The Government notified the Code on 29.09.2020, but is yet to implement majority of the provisions of the Code by invoking the powers conferred under sub-section (3) of section 1 of the Code.

The Code was proclaimed to be formulated for amending and consolidating the laws relating to social security with the goal to extend social security to all employees and workers in the organised, unorganised and any other sectors. But it has in fact repealed nine employee benevolent legislations, including the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, and contains several provisions which may affect the interests of the target class. Unfortunately, the Code is not envisioned as a legal frame to ensure reasonable minimum monthly pension amount to the members of the Employees' Pension Scheme on the basis of the present cost of living, basic living requirements and hardships faced by the old age pensioners.

It is deeply concerning that EPF pensioners continue to receive a pittance as their monthly pension, with many not even receiving the minimum amount of one thousand rupees introduced by the Government of India in 2014. At present, around 76 lakh pensioners are covered under the Employees' Pension Scheme across India, out of which approximately 36.50 lakh individuals are receiving less than one thousand rupees per month as pension. This meager pension is subjecting these retirees to severe financial distress, with many enduring untold hardships. The pensioners have long been making an earnest and overdue appeal to raise the minimum monthly pension to nine thousand rupees.

In a written reply submitted by the Government in the Rajya Sabha on August 3, 2023, it was revealed that the Employees' Pension Fund had a corpus of 7,80,308.93 crore rupees at the end of the financial year 2022-23. The interest and income generated from this corpus during the same period amounted to 51,985.82 crore rupees. However, the total pension disbursement for that year by the EPFO stood at a mere 4,444.60 crore rupees, representing only 27.79% of the income earned from the fund, without even utilizing the corpus itself. It is to be read with the fact that, as of 31st March, 2022, the total amount held in inoperative accounts under the Employees' Provident Fund stands at 4,962.70 crore rupees. In light of these figures, the EPFO has sufficient funds to increase the minimum pension. Even in the event of any shortfall in the payment of the minimum pension of nine thousand rupees, the Central Government, in addition to its existing contribution obligations under other provisions, shall also contribute the

required amounts at such rates to the Pension Fund corpus as may be necessary to cover the deficit.

Likewise, the Supreme Court *vide* its judgment dated 04.11.2022 in the *Employees Provident Fund Organisation & Anr V. Sunil Kumar B & Ors* permitted the following categories of employees for higher pension [for whom Employer's contribution has been on actual salary commencing prior to 1st September, 2014]:

i. Employees who had retired before 1st September, 2014 after exercising option under the 1995 scheme;

ii. Employees who had exercised option under the 1995 scheme and continued to be in service as on 1st September, 2014; and

iii. Employees, who did not exercise option under the said old 1995 scheme but continuing in service on or after 1st September, 2014 – subject to the submission of a joint option afresh.

In para 44 (v) of the said judgment, it has been commented that the employees who had retired prior to 1st September, 2014 without exercising any option under paragraph 11(3) of the pre-amendment scheme would not be entitled to the benefit of the judgment. It can be inferred that the said observation is on the applicability of this particular judgment and doesn't extinguish the right of pensioners retired prior to 1st September, 2014 as per other judgments, since the operative portion of this judgment mainly dealt with some other aspects. The observation in the Sunil Kumar case couldn't negate the right of higher pension of the said category of employees, who had retired prior to 1st September, 2014 without exercising any option, by making use of the dicta laid down by the Supreme Court in R.C. Gupta and Others vs. Regional Provident Fund Commissioner, Employees Provident Fund Organisation and Other [(2018) 14 SCC 809], wherein it was categorically observed that a beneficial scheme ought not to be allowed to be defeated by reference to a cut-off date in a situation where the employer was not following the ceiling limit of five thousand rupees or six thousand and five hundred rupees and had deposited 12 per cent. of the actual salary. Likewise, it was categorically mentioned by the larger Bench of the Supreme Court in the Sunil Kumar case that they agree with the reasoning of the two judge Bench in R.C Gupta Case that there was no cut-off date in proviso to paragraph 11(3) as it stood before the 2014 amendment (for filing joint option). As such, since 2014 amendment is not applicable to those employees retired prior to 1st September, 2014, it should be interpreted that such retired employees are governed by R. C. Gupta Case Judgment and that they are eligible for submitting joint option afresh without any cut-off date at all. Thus, this category of retired employees should not be denied the benefit of higher pension by the EPFO.

Another concern is that the employees who joined service after 01.09.2014 and have a salary exceeding fifteen thousand rupees are now excluded by the EPFO from availing benefits under the higher salary pension scheme. This stance is detrimental to the interests of these employees.

These issues could have been resolved by introducing necessary amendments to the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. However, since the said Act has been repealed under Section 164 of the Code on Social Security, 2020 and even though the Government has yet to notify the majority of the Code's provisions, it becomes imperative to propose these amendments to the Code on Social Security, 2020.

The Code is also silent on permitting the employees to plan their retirement life by contributing from salary to the Pension Fund at their volition when they are at the zenith of their career, over and above the employees' contribution towards the Provident Fund referred to in clause *(a)* of sub-section *(1)* of section 16 of the Code. Currently the corpus of the Employees' Pension Fund is made up of (i) contribution by the employer @ 8.33 per cent of wages; and (ii) contribution from Central Government through budgetary support @ 1.16 per cent. of wages, up to an amount of fifteen thousand rupees per month, as a 'Defined Contribution-Defined Benefit' Social Security Scheme. There is currently no provision in the Code permitting contribution by the employees towards Employees' Pension Fund. The employee contributions are continued to be limited to Employees' Provident Fund only. If the employees are allowed to contribute to the Pension Fund also at their discretion, in addition to their statutory contribution to the Provident Fund, they can draw a reasonable pension at the end of their service, proportionate to what they have contributed, over and above the minimum monthly pension. Similarly, there is demand from a part of the employees to increase the contribution of the Central Government to the Pension Fund from the current rate of 1.16%. Likewise, the Central Government shall, in addition to its existing contribution obligations under other provisions, contribute to the Pension Fund at the rate of 1.16 per cent of the employees' actual salary to the extent that such salary exceeds of fifteen thousand rupees per month, or at such amounts and higher rates as may be notified from time to time, to ensure the seamless disbursement of higher pension to the members of the Employees' Pension Scheme, commensurate with their actual salary drawn while in service.

Similarly, it is only just and equitable to determine the pensionable salary on the basis of the last 12 months' service of the employee. It is equally pertinent to note that it is the need of the hour to revise the factors for computation of monthly pension prevailing under the existing pension scheme so as to ensure reasonable pension to employees.

The Bill seeks to achieve the aforesaid objectives.

JOHN BRITTAS

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the minimum monthly pension under the Employees' Pension Scheme shall not be less than rupees nine thousand. Clause 3 of the Bill provides for enhanced contribution by the Central Government at or above eight and one-third per cent. of the wages of the members to the Pension Fund and for additional contribution by the Central Government to the Employees' Pension Fund as may be necessary to meet the short falls, if any, for the payment of minimum monthly pension of Rs. 9,000/- to the members of the Employees' Pension Scheme. Clause 4 of the Bill provides for additional contribution by the Central Government to the Employees' Pension Fund at the rate of 1.16 per cent of the employees' actual salary to the extent that such salary exceeds Rs.15,000/- per month, or at such amounts and higher rates as may be notified from time to time, to ensure the seamless disbursement of higher pension to the members of the Employees' Pension Scheme, commensurate with their actual salary drawn while in service.

The Bill, therefore, 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 likely expenditure involved.

XXXV

Bill No. LXVI of 2024

A Bill further to amend the Constitution of India.

WHEREAS it is expedient to reinforce the principles of constitutional governance and uphold the integrity of executive authority within the framework of the Constitution;

AND WHEREAS it is imperative to delineate the roles and responsibilities of Governors, ensuring their adherence to constitutional norms.

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 at once.

2. In article 158 of the Constitution, after clause (2), the following new clause shall be inserted, namely:— Amendment of article 158.

"2A. The functions of the Governor shall be confined to the powers

provided for in this Constitution, and under no circumstances shall the Governor be bestowed with any extra-constitutional position or authority pursuant to any law made by Parliament or the Legislature of a State, or otherwise, including, but not limited to, serving as Chancellor of Universities, save as otherwise explicitly provided for in this Constitution.

Provided that, notwithstanding anything inconsistent therewith contained in any other law, rules or regulations for the time being in force, the Chief Ministers of States, with the aid and advice of the Council of Ministers, shall perform the functions of such extra-constitutional roles hitherto performed by the Governors until necessary amendments in conformity to this clause have been made in the corresponding statutes, rules or regulations, wherever necessary, as the case may be.”.

STATEMENT OF OBJECTS AND REASONS

The enduring tradition of Governors presiding over Universities as Chancellors resonates with the echoes of a bygone British legacy. This practice traces back to the 'Despatch of 1854 on the General Education in India' by Sir Charles Wood, then President of the Board of Control, advocating for the establishment of Universities in India, envisioning a hierarchical structure comprising Chancellor, Vice-Chancellor, and a body of Fellows forming a Senate. A pivotal tenet enshrined within the Wood's Despatch was that the 'offices of Chancellor and Vice-Chancellor will naturally be filled by persons of high station, who have shown an interest in the cause of education…'. Following this suggestion, the Governor-General decided to assume to himself the mantle of Chancellorship at the University of Calcutta, while the Governors of Bombay and Madras assumed similar roles at the Universities in their respective presidency towns. These three universities were accordingly established in 1857 through separate legislations passed by the Legislative Council of India.

In the post-independence era, the establishment of State Universities followed suit, mirroring these precedents, often enshrining the Governor as the *ex-officio* Chancellor through legislative fiat. However, a profound shift transpired in the post-independence era, as the Governor became a constitutional authority. Following independence, a Committee chaired by Dr. S. Radhakrishnan examined this matter and observed that the practice of the Governor being a Chancellor had worked well in States with only one University. The Commission left it to the States to decide the appropriateness of the Governor assuming the responsibility of Chancellor, especially if the State had multiple Universities.

In the nascent years of our Republic, the harmony between Governors serving as Chancellors and State Governments remained largely unmarred, fostered by a political milieu where a singular party held sway both at the national and state levels. However, in the later decades, the tranquil waters were stirred by the emergence of multiple political parties, sometimes precipitating discord between these erstwhile harmonious entities. The inability of the elected State Governments to effectively supervise its own Universities has engendered myriad challenges in the overarching administration. Complications arise when the Governor, in the capacity of Chancellor, diverges from the advice of the Council of Ministers. While Justice R.S. Sarkaria Commission opined that there is no obligation on the Governor, in his capacity as Chancellor, to act on ministerial advice under Article 163(1) of the Constitution, it nonetheless underscored the widespread criticism against the use of discretion by some Governors in nominating members of a University Council or University functionary, in his capacity as Chancellor.

Justice V.R. Krishna Iyer eloquently characterized the offices of the President and the Governors as 'functional euphemisms', implying they should act solely upon ministerial advice. In *Maru Ram vs. Union of India* (1980), Justice Krishna Iyer wrote: *"The President and the Governor, be they ever so high in textual terminology, are but functional euphemisms promptly acting on and only on the advice of the Council of Ministers save in a narrow area of power."* However, in the realm of practicality, Governors assuming Chancellorship roles have of late veered away from this sacred principle, particularly in cases marked by political discord between the Central and State Governments. In response, several State Governments have embarked upon legislative endeavours aimed at divesting Governors of their *ex-officio* Chancellorship, citing apprehensions over potential political bias. However, the response to such State legislative actions is far from uniform. While Bills passed by certain States received the nod of approval from Governors, others found themselves in limbo as some Governors chose to withhold their assent or referred them to the President for consideration. A striking illustration lies in the case of the Gujarat Universities Laws (Amendment) Bill,

2013, which effectively divested the Governor of all Chancellorship powers, and received the Governor's assent in 2015. However, the destiny of similar bills, promulgated by various other States such as Kerala, unfolds along divergent paths where the Governors have either chosen to withhold their assent or reserve the Bills for the consideration of the President, reflecting the nuanced complexities inherent in the interplay between constitutional mandates and practical governance.

The concept of having Governors as ex-officio Chancellors is merely a convention enshrined within the founding statutes, as previously elucidated, and therefore, need not be misconstrued as an inherent entitlement and therefore, negating this concept should not be construed as diminishing or dismantling the authority of the Governors.

The Governor, devoid of an elected mandate, assumes office as an appointee of the President, and takes the Constitutional oath to preserve, protect and defend the Constitution and the law. The Governor functions as a Chancellor in pursuance of a statute in relation to the affairs of the University, notwithstanding that he holds the Chancellorship in an *ex-officio* capacity. Apparently, the immunity given to the Governor under Article 361(1) of the Constitution does not extend to the exercise of powers and duties associated with this role. This discrepancy has precipitated a disconcerting scenario wherein Governors are entangled in legal disputes as Chancellors, further compounded by allegations of partiality or overbearing conduct in university administration—a responsibility primarily entrusted to elected State Governments. The Punjab and Haryana High Court in *Hardwari Lal vs. G.D. Tapse & Ors.* (1981) held that the powers and duties exercised and performed under the statute by the Chancellor have absolutely no relation to the exercise and performance of the power and duties of the office of the Governor and that no absolute immunity as envisaged in Clause (1) of Article 361 of the Constitution of India is available to the Governor for the acts done in exercise of the power or in performance of the duties as Chancellor of the University.

Furthermore, it is essential to recognize that the Governor assumes the role of titular head of the State, rather than a representative of its populace and, as such, he should not be embarrassed with being held accountable by Courts for administrative matters or public grievances. The role of the Governor should be confined strictly within the bounds of constitutional provisions. Hence, the time is ripe to advocate for a nationwide proscription against burdening Governors with the onerous responsibility of Chancellorship or any other extra-constitutional roles.

In this context, it is imperative to highlight the recommendations put forth by the Commission on Centre-State Relations under the Chairmanship of Justice Madan Mohan Punchhi. In its report submitted in March, 2010, the Commission articulated a profound stance on the issue of Governors serving as Chancellors of Universities and assuming other statutory positions, as outlined below:

> *"To be able to discharge the Constitutional obligations fairly and impartially, the Governor should not be burdened with positions and powers which are not envisaged by the Constitution and which may expose the office to controversies or public criticism. Conferring statutory powers on the Governor by State Legislatures have that potential and should be avoided. Making the Governor the Chancellor of the Universities and thereby conferring powers on him which may have had some relevance historically has ceased to be so with change of times and circumstances. The Council of Ministers will naturally be interested in regulating University education and there is no need to perpetuate a situation where there would be a clash of functions and powers. Governor should not be assigned functions casually under any Statute. His role should be confined to the Constitutional provisions only."*

Given the incongruity between constitutional mandates and extra-constitutional roles, it becomes incumbent upon us to heed the sage recommendations of the Punchhi Commission and relieve Governors of non-constitutional responsibilities, including Chancellorships.

The Bill seeks to achieve the above-said objectives.

JOHN BRITTAS

XXXVI

Bill No. LXIV of 2024

A Bill to repeal the Bharatiya Nyaya Sanhita, 2023; the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Sakshya Adhiniyam, 2023.

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 Criminal Laws (Repeal) Act, 2024.

(2) It shall come into force at once.

Repeal of certain enactments.

2. The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Savings.

3. The repeal by this Act of any enactment shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, forfeiture, obligation, liability, claim or demand, or

any indemnity already granted, or punishment incurred in respect of any offence committed against any enactment so repealed or the proof of any past act or thing; nor affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid.

Revival of operation of previous enactments.

4. The repeal of the enactments specified in the Schedule to this Act shall, with immediate effect, restore and revive the operation of the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872, as they stood prior to their repeal by the said enactments.

45 of 1860.
2 of 1974.
1 of 1872.

THE SCHEDULE

(*See section 2*)

REPEALS

Year	Act No.	Short Title	Extent of repeal
2023	45	The Bharatiya Nyaya Sanhita, 2023	The whole
2023	46	The Bharatiya Nagarik Suraksha Sanhita, 2023	The whole
2023	47	The Bharatiya Sakshya Adhiniyam, 2023	The whole

STATEMENT OF OBJECTS AND REASONS

The Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagrik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhiniyam (BSA) were passed by the Lok Sabha on 20th December 2023, and by the Rajya Sabha on 21st December 2023. These legislations received the assent of the Hon'ble President on 25th December 2023 and came into effect on 1st July 2024. The promulgation of these laws represents a significant shift in India's legal framework, as they replaced the Indian Penal Code (IPC) 1860; the Code of Criminal Procedure (CrPC) 1973; and the Indian Evidence Act 1872.

The Union Government has hailed these laws as a modernization of India's legal system, yet both the process of their passage and their content have sparked significant concern, as no meaningful debate was held in Parliament, despite their profound implications for India's criminal justice framework. To add to the concerns, no substantial pre-legislative consultation within the public domain was conducted prior to the Bills being introduced in Parliament. At the core of the concern are the ambiguously worded provisions, a substantial expansion of police powers, broader discretion in arrests and investigation, extended remand periods, infringement of federal principles, etc. These Acts appears to diminish judicial oversight while bolstering state authority without adequate checks and balances. The vague nature of several clauses are likely to grant the Government broad latitude, stoking fears of arbitrary enforcement and casting the ominous shadow of a police state.

Instead of implementing the recommendations of several Law Commissions for the betterment of the criminal justice system, these Acts have made superficial changes to the criminal laws of India. They do not adequately address the systemic delays and inefficiencies in the judicial process, such as slow trials, overcrowded prisons, and case backlogs. Despite claims of breaking from colonial legacies, these new criminal laws largely perpetuate the colonial-era philosophy. While the names of the laws have been Indianized and certain procedural updates made, the core structure—centered on state authority and punitive justice—remains largely unchanged. It represents a cosmetic revision of colonial-era codes, with some regressive modifications. Perhaps the most significant alteration has been the renumbering of the sections.

The absence of adequate stakeholder consultation has further deepened these concerns. The Pre-Legislative Consultation Policy of 2014 mandates that draft legislation or key points in a brief note shall be made publicly available for at least thirty days. However, the draft versions of these Bills apparently were not released to the public. Although the Bills were referred to the Parliamentary Standing Committee on Home Affairs, many of the Committee's recommendations seems to have been disregarded. The hurried passage of these Bills, with minimal input from neutral experts, civil society, and marginalized communities, reflects a concerning neglect of democratic participation in shaping legal reforms.

These legislations have raised significant concerns for expanding the powers of law enforcement agencies, potentially leading to misuse and violations of civil liberties. Despite longstanding issues of alleged custodial torture and police brutality in the Indian criminal justice system, the new laws fail to include sufficient provisions addressing these concerns. The Bharatiya Nagarik Suraksha Sanhita allows police to detain individuals for up to 15 days intermittently during the first 40

or 60 days of a 60 or 90 day judicial custody period. This means a Magistrate may order that an accused person can be transferred from judicial custody back to police custody at any point beyond the first 15 days of arrest, even if judicial custody has already been granted. This staggered approach to police custody complicates bail applications, as courts will be more reluctant to grant bail during the entire remand period if the police have not exhausted all 15 days of custody. This practice contradicts Supreme Court guidelines, which generally stipulate that police custody should be confined to the first 15 days of remand.

Another key indication that the new criminal laws aim to concentrate power in the hands of the police is seen in Section 172 of the BNSS, which mandates that all individuals must comply with the lawful directions of a police officer. This section further stipulates that any person who resists, refuses, ignores, or disregards such directions may be taken into custody by the police officer and either presented before a Magistrate, or released in petty cases within 24 hours. Notably, this provision lacks any accompanying safeguards to protect citizens from potential abuse of this authority, effectively granting police officers broad discretion without corresponding accountability. This absence of checks arms the police with significant impunity and immunity from action in cases of wrongful use of their powers. It is to be read with the fact that Section 175(4) of the BNSS introduced new restrictions on the powers of Magistrates in ordering investigation against public servants arising from the discharge of their official duties. This new sub-section stipulates that a Magistrate can order an investigation into such complaints only upon the compliance of two conditions: (a) after receiving a report containing the facts and circumstances of the incident from the superior officer of the accused public servant, and (b) after considering the response of the public servant as to the situation that led to the incident. A similar safeguard protecting police officers from accountability is found in Section 223 of the BNSS, which deals with Complaints to Magistrates. While the main body of Section 223 of BNSS reproduces Section 200 of the CrPC regarding the examination of complainants, a crucial addition by way of Section 223(2) significantly impacts a citizen's ability to seek redress for abuse of power by public officials even through the Courts of law. This new sub-section conditions the Court's ability to take cognizance of a complaint against a public servant by requiring (a) that the accused public servant be given an opportunity to explain the circumstances leading to the alleged incident, and (b) that a report on the facts be obtained from the superior officer of the accused. In practice, it is notoriously difficult to secure an admission of wrongdoing from a public servant or an impartial report from a superior officer. Section 175(4) and section 223(2) of BNSS effectively codify this systemic administrative reluctance, creating a legal barrier that prevents citizens from approaching the Courts with complaints of abuse of power by public officials.

Section 436A of the repealed Code of Criminal Procedure provided that any individual detained for a period amounting to half of the maximum sentence for the alleged offence—except where the death penalty is a potential punishment—was entitled to be released on bail, with or without sureties. While section 479 of BNSS retains this provision, it introduces new significant restrictions. The new provision further excludes two key categories from its application: (i) offences punishable by life imprisonment, and (ii) cases where investigations, inquiries, or trials for multiple offences or more than one case are pending. These exclusions significantly narrow the scope of the provision, potentially disqualifying a large number of undertrial prisoners from receiving mandatory bail. Given that charge sheets often include

multiple offences, this change will disproportionately affect undertrial prisoners, further contributing to prolonged detentions without trial.

The BNSS also permits the use of handcuffs in a wide range of situations, contradicting established rulings of the Supreme Court and guidelines set by the National Human Rights Commission. The Supreme Court has held that handcuffing is inhumane, unreasonable, arbitrary, and in violation of Article 21 of the Constitution. It also held that in rare cases where handcuffs are necessary, the escorting authority must provide recorded reasons for their use, and under no circumstances can an undertrial prisoner be handcuffed without judicial consent. However, these crucial safeguards have been disregarded in the new law, effectively undermining protections against the arbitrary use of handcuffs.

Additionally, while the Code of Criminal Procedure (Amendment) Act, 2005 introduced section 311A in the erstwhile CrPC empowering Magistrates to obtain handwriting or signature specimens from arrested individuals, the BNSS expands this authority. Under the new provisions, Magistrates can now also collect finger impressions and voice samples from individuals who are not even under arrest (Sec. 349). This expansion comes at a time when the constitutional validity of the Criminal Procedure (Identification) Act, 2022—which allows for broader data collection from criminals and accused persons—is under judicial scrutiny before the Delhi High Court.

The new criminal laws significantly reduce judicial oversight, particularly in areas such as pre-trial detention. For instance, increased reliance on video conferencing for court appearances, while aimed at improving efficiency, could compromise the fairness and transparency of judicial processes. This shift raises concerns about the potential infringement on fundamental rights, especially for marginalized communities, who may lack access to digital infrastructure or the resources to defend themselves in this new system.

Section 273 of the repealed CrPC, which required that evidence be taken in the physical presence of the accused, has been altered in Section 308 of the BNSS. The new provision also allows for the accused's presence *via* audio-video electronic means, effectively undermining the right to a free and fair trial. This seriously infringes on the accused person's right to mount proper and effective defence. For those unable to secure bail, the requirement for physical presence in Court was a crucial safeguard, allowing accused individuals to meet with their lawyers and family members, and to actively engage in preparing their defence against the charges. By replacing this with audio-video conferencing, these critical rights are eroded, amounting to a serious violation of Article 21 of the Constitution.

The Bharatiya Sakshya Adhiniyam's focus on electronic evidence has also sparked serious concerns about data privacy and the risk of increased state surveillance. The lack of robust safeguards for handling electronic evidence raises the potential for manipulation and selective targeting of individuals or groups. Questions have been raised about how this electronic evidence will be collected, authenticated, and utilized in Court, with many fearing that the absence of clear protocols could undermine justice and due process.

Several provisions in the new laws, particularly those addressing cybercrime, terrorism, and offences against the state, are ambiguously worded, leaving them vulnerable to broad interpretation. Such vague definitions could be misused by authorities to target individuals based on subjective criteria, resulting in arbitrary

enforcement. This approach risks overcriminalization, leading to overcrowded prisons and disproportionately affecting marginalized communities that are more vulnerable to state actions. The combination of expanded police powers and broad legal provisions creates significant potential for misinterpretation and misuse.

Moreover, the inclusion of organized crime and terrorism into the general criminal law framework overlaps with existing special laws, such as the highly criticised Unlawful Activities (Prevention) Act, 1967 (UAPA). This redundancy may create confusion and lead to inefficiencies in enforcement. A crucial question arises as to why there is a push for a general law when specialized laws are already in place. Integrating laws pertaining to terrorism and organized crime into the ordinary penal framework could also result in significant ambiguity regarding legal procedures and jurisdiction. Provisions of the UAPA that address terrorism, punishments for terrorist acts and for recruiting individuals for terrorist activities have largely been replicated in Section 113 of the Bharatiya Nyaya Sanhita, 2023. This duplication could lead to prosecution for the same offence under two different laws by two separate agencies—the National Investigation Agency and local state police—thereby exacerbating confusion.

Similarly, the offence of sedition has been retained in Section 152 of the BNS with an overly broad and vague definition, effectively making it more stringent and contravening the spirit of the Supreme Court's directions on this matter. Terms such as "subversive activities" and "separatist activities" remain undefined, apart from leaving it unclear how to assess what constitutes encouragement of "feelings" related to separatist activities or what actions might endanger the sovereignty, unity, or integrity of India. Given these imprecise and sweeping provisions, Section 152 is highly susceptible to misuse and abuse. In a vast and diverse country like India, raising grievances on behalf of different castes, communities, or groups could easily be interpreted as promoting separatist tendencies by these vague provisions. The reach of the new provision is extensive and could encompass a wide range of activities that the State may label as encouraging subversive or separatist sentiments, or threatening the nation's sovereignty and integrity. For instance, a caste group advocating for its rightful share of reservation benefits, educational quotas, or development funding may find itself accused of fostering separatist feeling. This shift clearly aims to suppress and silence democratic voices by criminalizing non-violent protests, agitation, and citizen campaigns against government policies. Section 152 can be weaponized against any form of democratic dissent or assertion.

Reflecting the overarching theme of the new laws that empower the police and state with extensive authority from the moment of arrest until the conclusion of a trial, the BNSS introduces a provision for the seizure, attachment, and distribution of property pending trial. Under Section 107 of the BNSS, a police officer investigating a case may approach the jurisdictional Court for attachment if they have reason to believe that any property belonging to the accused is derived from or obtained—directly or indirectly—as a result of criminal activity. Sections 107(5) to (7) stipulate that if the Court believes that issuing a notice would thwart the intent of the attachment or seizure, it may issue an *ex parte* interim order for the direct attachment or seizure of the property in question. Moreover, it also provides that if the Court or Magistrate determines that the attached or seized property constitutes proceeds of crime, the Court shall direct the District Magistrate to distribute such proceeds to the affected parties within 60 days. It is crucial to note that these significant powers can be exercised solely based on accusations from police

officials, even before giving the accused the opportunity for a fair trial to establish their innocence or guilt.

Similarly, the new laws grant police arbitrary powers in cases where the prescribed jail term is less than seven years. Police can refuse to file FIRs for crimes punishable by imprisonment between three to seven years and can take a 14-day period to assess the validity of allegations. This discretion has been introduced despite several Supreme Court rulings mandating police to register FIRs immediately upon receiving complaints from victims, aimed at curbing corruption. The Supreme Court's ruling in Lalita Kumari *vs.* State of Uttar Pradesh underscored the necessity of immediate FIR registration based on the substance of a complaint, effectively ending the prior practice of police delaying or avoiding case registrations. The introduction of new twin preconditions in Section 173(3) of the BNSS—requiring prior permission from the Deputy Superintendent of Police for preliminary inquiries or investigations and granting police discretion to conduct preliminary inquiries before filing an FIR—directly contradicts these Supreme Court directives. The implications of such a mechanism are manifold. The BNSS delineates around 100 different offences with imprisonment terms ranging from three to seven years, thereby bestowing upon investigating officers unchecked discretion to determine whether a *prima facie* case exists warranting immediate FIR registration. These offences encompass theft, cheating, criminal breach of trust, dishonestly receiving stolen property, rioting with a deadly weapon, and exploitation of trafficked persons, among others. Previously, it was the exclusive domain of the criminal Courts to ascertain the existence of a *prima facie* case after reviewing all material evidence. By empowering police officers to make this determination at such an early stage—merely upon receiving information—the risk of power abuse becomes evident. This alteration threatens to revive previous challenges faced by complainants in seeking redress, heightening the potential for misuse of authority.

Furthermore, the aforementioned provision has detrimental effects on individuals accused of an offence as well. The requirement for a preliminary inquiry prior to the registration of an FIR creates confusion for potential accused individuals, who are not even aware whether they are an accused or not. It is a fundamental tenet of criminal law that investigations only begin following the registration of an FIR. Under the new criminal laws, individuals can be summoned to respond to police notices without even being aware of the specific allegations against them. Since no FIR exists at the time of the preliminary inquiry, there is no obligation to provide a copy of it to such individuals, which undermines the safeguards established by the Supreme Court in Youth Bar Association of India vs. Union of India and Others, which mandates that a copy of the FIR must be provided even before the stage of Section 207 of the CrPC. This new preliminary inquiry requirement resembles a key aspect of the Prevention of Money Laundering Act, 2002, regarding the status of the individual receiving notices or summons: is the individual being summoned as an accused or as a witness? This situation may compel individuals to provide information without being confronted with the incriminating evidence against them, which raises significant constitutional concerns, particularly the right against self-incrimination enshrined in Article 20(3) of the Constitution.

Similarly, the BNSS has introduced an apparently troubling new provision in Section 356, which pertains to the 'inquiry, trial, or judgment in absentia of proclaimed offender.' This section allows for the trial of individuals declared as

'proclaimed offenders'—those who have absconded to evade trial—when there is no immediate prospect of their arrest. Under this provision, the absence of the accused is considered a waiver of their right to be present during the trial, enabling the Court to proceed as if the individual were present and to deliver a judgment accordingly. This provision represents a significant violation of fundamental principles of criminal justice, particularly the principle of '*audi alteram partem,*' which asserts that no one should be punished without having the opportunity to be heard. Particularly concerning is the proviso to Section 356(7), which stipulates that no appeal against a conviction shall be entertained after the lapse of three years from the date of the judgment, if the accused was tried in absentia. This raises a grave question: What if a death sentence or imprisonment for life has been imposed, and the accused voluntarily appears before the Court after the three-year period? Such an individual would be deprived of any opportunity to present their version of events or prove their innocence by mounting a defence—something that only the accused individual can do effectively.

Another key issue is with the mandatory Zero FIR registration- filing of complaints regardless of jurisdiction- which leads to procedural ambiguity; particularly regarding actions after an FIR is filed. While Zero FIRs enable victims to file complaints outside jurisdictional limits, potential misuse could arise, such as complainants filing FIRs in distant locations to harass the accused, allowing unwarranted enquiry by out-of-jurisdiction police, etc. Moreover, the law is unclear about the time frame for transferring such cases to the appropriate jurisdiction, potentially leading to delays and miscarriages of justice.

Furthermore, these laws have faced criticism for undermining India's federal structure. Section 477 of the BNSS, which grants the State Government the authority to remit or commute sentences for certain types of offences or investigation by central agencies under other central Acts, has undergone a subtle yet significant change that challenges the core principles of federalism enshrined in the Indian Constitution. Section 477 of the BNSS is almost a verbatim reproduction of Section 435 of the repealed CrPC, with one notable alteration - the original provision in CrPC allowed the State Governments to exercise those powers after "consultation with the Central Government," which has now been changed to "concurrence with the Central Government" This shift from 'consultation' to 'concurrence' fundamentally undermines the federal principles inherent in the Indian Constitution. This change is not merely cosmetic; it reflects a broader pattern in the BNSS aimed at centralizing authority within the police and concentrating power with the Central Government. Criminal law falls under the Concurrent List, which permits both the Union and the States to legislate. However, the centralized nature of these new laws restricts the States' ability to tailor criminal laws to their unique contexts and challenges.

Similarly, Section 226 of the Bharatiya Nyaya Sanhita addresses "attempt to commit suicide to compel or restrain exercise of lawful power" - introducing a new provision in India's penal law. This provision has the potential to effectively criminalize even those individuals who engage in hunger strikes as a form of civic protest, imposing penalties of up to one year of simple imprisonment. From the era of Mahatma Gandhi and the Satyagraha Movement, hunger strikes have been recognized as a legitimate, non-violent method for articulating democratic demands. Historically, non-violent and democratic forms of protest have been viewed as valid expressions of dissent in India. However, Section 226 now criminalizes this

essential aspect of democratic protest, framing it as a criminal act. This shift is likely to deter citizens from exercising their fundamental rights to organize, express dissent, and challenge government schemes and policies.

The Bharatiya Nyaya Sanhita has entirely omitted Section 377 of the Indian Penal Code, which pertains to "unnatural sex." It is important to note that the Supreme Court had earlier read down Section 377 IPC in the landmark case of Navtej Singh Johar vs. Union of India (2018), decriminalizing consensual same-sex relations between adults. However, the Court maintained that Section 377 could still be invoked in cases of non-consensual sexual activity involving adults, acts of bestiality (sexual intercourse with animals), etc. The complete removal of Section 377 IPC from the BNS creates a legal void concerning the protection of adults and animals from unnatural sexual violence.

The gravity of these issues cannot be overstated. They also pose a significant threat to the delicate balance between state authority and individual freedom. The changes introduced by the new Criminal Acts undermine crucial legal protections, erode accountability mechanisms, and curtail legitimate forms of dissent and protest, among others. As lawmakers, we have a profound responsibility to respond to these pressing concerns. The proposed Bill seeks to address these critical issues by repealing the new criminal laws and reinstating the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC), and the Indian Evidence Act. This restoration is essential not only for safeguarding the rights of individuals but also for preserving the foundational principles of justice and equity that underpin our legal system. We have to reaffirm our commitment to a just and humane society where the rule of law prevails over arbitrary authority.

Hence, this Bill.

JOHN BRITTAS

XXXVII

Bill No. LXXVI of 2024

A Bill to recognise rivers as legal or juristic or juridical persons and entitle them with legal rights similar to the rights of human beings, allowing them to exist, flourish, and be protected from harm 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 Recognition of Legal Person Status of Rivers Act, 2024.

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

Definitions.

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

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

(b) "Committee" means the Rivers Protection Committee established under section 6 ;

(c) "legal or juristic or juridical person" means entities entitled with rights guaranteed under article 21 of the Constitution of India;

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

(e) "rivers" means natural rivers located within the geographical boundaries of India with length of forty kilometers and above.

Declaration as legal or juristic or juridical person.

3. *(1)* A river shall be a legal or juristic or juridical person and shall be entitled to all the rights, powers, duties, and liabilities of such a person, as available under the Constitution of India and in other laws, as applicable, for the time being in force.

(2) The rights, powers, and duties of rivers shall be exercised or performed, and responsibility for its liabilities shall be taken, by the Committee, on behalf of, and in the name of rivers, in the manner provided for in section 4 and section 5 of this Act.

Legal effect of declaration of rivers as legal person or juristic person or juridical person.

4. The provisions of section 3 shall apply to persons exercising or performing a function, power, or duty provided under this Act and under the provisions of laws, as applicable this regard, for the time being in force, if the exercise or performance of that function, power, or duty relates to—

(i) rivers as defined under section 2*(a)*; and

(ii) an activity within the river catchment that affects it.

Limits to effect of this Act and deed of settlement.

5. Unless expressly provided for by or under this Act, nothing in this Act shall—

(a) limit any existing private property rights in rivers; or

(b) create, limit, transfer, extinguish, or otherwise affect any rights to, or interests in, river water; or

(c) create, limit, transfer, extinguish, or otherwise affect any rights to, or interests in, wildlife, fish, aquatic life, seaweeds, or plants etc. in the rivers; or

(d) affect the application of any law in this regard for the time being in force.

Establishment of the Rivers Protection Committee.

6. ***(1)*** **The Central Government shall, within six months from the date of commencement of this Act, by notification in the Official Gazette, establish a Committee, to be known as the Rivers Protection Committee, to exercise the powers conferred upon, and to perform the functions and duties assigned to it, under this Act.**

(2) The Committee shall act as the protector of the rights conferred on rivers under section 3 of this Act;

(3) The Committee 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 acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

***(4)* The headquarters of the Committee shall be at such place in the National Capital Territory of Delhi, and it may, with the approval of the Central Government, set up regional and other offices in any other place in India, as deemed necessary.**

(5) The Committee shall have full powers to regulate its own procedure with respect to transaction of its business and for the discharge of the functions assigned to it under this Act.

Composition of the Committee.

7. *(1)* The Committee shall consist of the following persons: –

(a) Chairperson of the National Green Tribunal – Chairperson *ex-officio;*

*(b)*Secretary, Union Ministry of Jal Shakti – Member *ex-officio*;

(c) Secretary, Union Ministry of Environment, Forests, and Climate Change – Member *ex-officio*;

(d) Secretary, Union Ministry of Ports, Shipping, and Waterways– Member *ex-officio*;

***(e)* one person, who is renowned in the field of river conservation and ecological restoration or environmental studies, and possesses the requisite qualifications, knowledge, experience and skills, as may be prescribed, to be nominated by the President of India – Member;**

(f) one person from the Prime Minister's Office, who possesses the requisite qualifications, knowledge, experience and skills, as may be prescribed, to be nominated by the Prime Minister – Member *ex-officio*;

(g) one Member of Parliament from the Council of States (Rajya Sabha), to be nominated by the Chairman, Rajya Sabha– Member *ex-officio*;

(h) one Member of Parliament from the House of the People (Lok Sabha), to be nominated by the Speaker, Lok Sabha – Member *ex-officio*;

***(i)* two Members who are experts on river related issues, to be appointed by the Central Government in such manner, as may be prescribed;**

***(j)* one female Member with expertise in eco-feminism, to be appointed by the Central Government in such manner, as may be prescribed;**

***(k)* one Member with expertise in climate change and environment, to be appointed by the Central Government in such manner, as may be prescribed;**

***(l)* one Member with an expertise in agriculture related issues, to be appointed by the Central Government in such manner, as may be prescribed; and**

(m) one person representing industry associations, to be nominated by the Ministry of Commerce and Industry–Member *ex-officio*.

***(2)* The term of office of, the salaries, remuneration and allowances payable to, and other terms and conditions of service of the Chairperson, Members and experts of the Committee shall be such as may be prescribed.**

Officers and staff of the Committee.

8. ***(1)* The Central Government may appoint such number of officers and staff including legal experts, as deemed necessary, to assist the Committee in the efficient discharge of its functions and duties.**

***(2)* The method of recruitment, qualifications and experience, salaries and allowances or remuneration payable to, and other terms and conditions of service of the officers and staff including legal experts of the Committee, shall be such as may be prescribed.**

Functions of the Committee.

9. The Committee shall perform all or any of the following functions, but not limited to be, namely—

(a) act and speak for and on behalf of rivers and protect their status as legal or juristic or juridical persons, as conferred under section 3 of this Act;

(b) uphold the legal or juristic or juridical person status of rivers;

(c) **collate and maintain a Register of Rivers detailing the status and condition of the rivers, in such form and manner, as may be prescribed and publish the same on the website of the Committee for information of the general public;**

(d) promote and protect the health and well-being of rivers;

(e) administer rivers;

(f) engage with any institution, body or agency concerned to assist it in understanding, applying and implementing the legal or juristic or juridical status of rivers and collaborate with them in matters pertaining to the objectives and functions of the Committee;

(g) make recommendations to the appropriate Government regarding the necessary measures including developing or reviewing relevant guidelines or policies related to rivers for carrying out the purposes of this Act;

(h) receive grievances or complaints, in such form and manner, as may be prescribed, from any person or agency(ies), Non-Governmental Organisations etc. regarding deprivation of the rights of rivers or breach or violation of any of the provisions of this Act or any other matter related thereto and investigate into the complaints so received from them as well as suggest appropriate remedial measures or impose penalties on the violators, as the case may be;

(i) any other action reasonably necessary to achieve its purpose and perform its functions as assigned under this Act; and

(j) any other function related to rivers or any other matter, as may be referred to it by the appropriate Government from time to time.

Management of activities on the surface of waters of rivers.

10. *(1)* As soon as may be practicable after the commencement of this Act, the Committee shall lay down the process and guidelines for —

(a) review of regulations for the activities carried out on the surface of the waters of rivers ;

(b) improvement and coordination of the management of such activities;

(c) the nature and extent of existing and possible future activities on the surface of rivers;

(d) overseeing the relationship between activities on the surface of the rivers and activities on land(s) adjacent to them;

(e) matters relevant to public health and safety, particularly connected with people living along river banks;

(f) protection of the health and well-being of rivers; and

(g) any other relevant matters, as may be deemed fit.

(2) The Committee may, in the pursuance of its functions given under sub-section *(1)*, consult the Ministries/Departments/agencies of the appropriate Government, as may be necessary, and carry out its functions under this Act in coordination with them.

Committee to have powers of a Civil Court.

11. The Committee shall, while investigating any matter referred to in clause *(h)* of section 9, have all the powers of a Civil Court trying a suit and, in particular in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commission for the examination of witnesses and documents; and

(f) any other matter, as may be prescribed.

Penalties.

12. *(1)* If the Committee determines on conclusion of an inquiry that breach of any of the provisions of this Act or the rules made thereunder has been committed and that such breach is of significant or grave nature, it may, hold such person or organization, as the case may be, guilty and they shall be liable to be punished with imprisonment which may extend to one year or with fine which may extend up to one hundred and fifty crore rupees or both:

Provided that the penalty shall not be imposed without giving the person or organization a reasonable opportunity of being heard.

(2) All sums realized, by way of penalties, imposed by the Committee under this Act, shall be credited to the Consolidated Fund of India.

Offences by companies.

13. *(1)* Where an offence under this Act has been committed by a company, every person who, at the time, the offence was committed was in charge of, or 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:

Provided that nothing contained in this sub-section, shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he had 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 anybody corporate and includes a firm, or other association of individuals; and

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

Appropriate Government to consult the Committee.

14. The appropriate Government shall consult the Committee on all policies and matters affecting the rights and interests of rivers and any activities on their waters, catchment areas and lands adjacent thereto.

Central Government to provide adequate funds to the Committee.

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

Accounts and audit.

16. *(1)* The Committee shall, in consultation with the Comptroller and Auditor-General of India, maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner and at such time of each financial year, as may be prescribed.

(2) The accounts of the Committee shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Committee to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Committee under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General; generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Committee.

(4) The accounts of the Committee, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Committee.

Annual report.

17. *(1)* The Committee shall prepare, in such form and manner and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, containing therein its recommendations to the Centre and the States, as the case may be, for the effective implementation of the provisions of this Act and forward a copy thereof to the Central Government.

(2) The Central Government shall cause the annual report together with the audit report to be laid, along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Centre and the reasons for the non-acceptance, if any, of any of such

recommendations, as soon as may be after the reports are received, before each House of Parliament.

(3) Where any such report, or any part thereof relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the State Government concerned, who shall in turn, cause it to be laid before each House of the Legislature of the State, where it consists of two House, or where such Legislature consists of one House, before that House, along with an explanatory memorandum explaining the action taken or proposed to be taken on the recommendations related to the State, and the reasons for the non-acceptance, if any, of any of such recommendations.

Power to remove difficulties.

18. *(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 the difficulty;

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

Act not in derogation of any other law.

19. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

Power to make rules and regulations.

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

(2) The Committee may, with the approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

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

STATEMENT OF OBJECTS AND REASONS

Rivers have always been entitled to a holy connotation in ancient Indian texts and have always been worshipped by the Indian society. Alongwith entitling "right to life" to citizens, several democracies have recognised rivers as legal person/juristic person/juridical person and entitled them with "right to life".

Water has been the basis of life and has been equated with the father and rivers have been compared to the mother. This idea of recognising rivers as legal person/juristic person/juridical person emphasizes that rivers should have legal rights similar to human rights, allowing them to exist, flourish, and be protected from harm.

Countries like New Zealand have already shown the path in the legal and legislative domain by granting legal personhood to rivers, enabling them to be protected and charging entities against pollution and degradation.

In 2017, rivers Ganga and Yamuna were recognised by the Uttarakhand High Court as living entities with the status of legal people, together with all the rights, obligations, and liabilities that go along with that. The judgment *inter alia* read, "Accordingly, while exercising the *parens patriae* jurisdiction, the Rivers Ganga and Yamuna, all their tributaries, streams, every natural water flowing continuously or intermittently of these rivers, are declared as juristic/legal persons/living entities having the status of a legal person, with all corresponding rights, duties and liabilities of a living person, in order to preserve and conserve river Ganga and Yamuna." They were also accorded rights akin to fundamental rights/ legal rights.

Given the unchecked pollution, recognizing the rights of rivers can help address environmental injustices faced by communities that rely on these water bodies for their livelihoods and well-being. Granting personhood rights to rivers can enhance conservation efforts and promote sustainable management of water resources. The Bharatiya society has always held rivers as sacred, viewing them as vital to their identity and heritage. This recognition can help protect these cultural values.

Hence this Bill.

SATNAM SINGH SANDHU

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the establishment of the Rivers Protection Committee, which shall be a body corporate for carrying out the purposes of this Act and shall also act as the protector of the rights of legal/juristic/juridical persons conferred on rivers under clause 3 of this Bill. Clause 6 also provides that the headquarters of the Committee shall be in the National Capital Territory of Delhi and that the Committee may set up offices at other places in India, with the approval of the Central Government. Clause 7 of the Bill provides the composition of the Committee and for the salaries, remuneration and allowances payable to, and other terms and conditions of service of the Chairperson, Members and experts of the Committee. Clause 8 provides that the Central Government shall appoint such number of officers and staff including legal experts to the Committee to assist it in the discharge of its functions and also for the salaries, remuneration and allowances payable to, and other terms and conditions of service of such officers and staff. Clause 9 lays down the functions of the Committee *inter alia* including collating and maintaining a 'Register of Rivers'. Clause 15 of the Bill provides that the Central Government shall provide adequate funds to the Committee for carrying out the purposes of the Bill.

The Bill, therefore, if enacted, would involve expenditure, both of recurring and non-recurring nature, from the Consolidated Fund of India. The Bill, if enacted, is likely to involve a recurring expenditure of about rupees three hundred crore per annum. A non-recurring expenditure of about rupees fifty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 18 of the Bill empowers the Central Government make such provisions through an order for removing any difficulty that might arise in giving effect to the provisions of the Bill. Clause 20 of the Bill empowers the Central Government to make rules and the Rivers Protection Committee, with the approval of the Central Government, to make regulations, for carrying out the purposes of the Bill.

As the matters in respect of which rules or regulations or orders may be made are matters of procedure and administrative detail only, the delegation of legislative power is of a normal character.

XXXVIII

Bill No. LXXXVIII of 2024

A Bill to provide for the prohibition, prevention, and eradication of black magic, witch-hunting and superstitious practices, and to protect individuals from exploitation and harm caused by such practices with harsh penalties and strict enforcement mechanisms and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to prevent and eradicate inhuman and exploitative practices such as black magic, witch-hunting, human sacrifice, and other superstitious rituals that affect the dignity, safety, and welfare of individuals, especially women, children, and marginalised communities;

AND WHEREAS such practices continue to exist in various parts of country, causing physical and mental harm, often resulting in violence, exploitation, ostracism, and in extreme cases, death.

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

CHAPTER I

PRELIMINARY

Short title and commencement

1. *(1)* This Act may be called the Prevention of Black Magic, Witch-Hunting, and Superstitious Practices Act, 2024.

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

Definitions.

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

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

(b) "black magic" means any practice, ritual, or act involving the invocation or use of supernatural powers, occult techniques, or mystical beliefs performed with the intent to harm, exploit any person physically, mentally, or financially, instill fear, coercion, or intimidation in any person or manipulate others by claiming to possess unnatural or mystical abilities or by use of spells, curses, or other alleged paranormal methods to achieve such ends;

(c) "Fund" means Victim Compensation Fund established under section 17 of the Act;

(d) "human sacrifice" means the killing of a human being or the mutilation or amputation of any part of the human body, as part of any ritual aimed at invoking supernatural powers;

(e) "inhuman practices" means any act that causes physical or mental suffering to an individual in the name of black magic, witch-hunting, or superstitions;

(f) "prescribed" means prescribed in the rules framed under this Act;

(g) "Register" means the National Register of Offenders to be maintained under section 15 of this Act;

(h) "repeat offender" means a person who, during any continuous period of prescribed years, whether before or after the commencement of this Act, has been convicted and sentenced to imprisonment more than once on account of any one or more of the offences under this Act committed on different occasions and not constituting parts of same transaction; and who has, as a result of such convictions, suffered imprisonments at least for a prescribed period of time.

Explanation.—A conviction which has been set aside in appeal or revision and any imprisonment suffered in connection there with shall not be taken into account for the above purpose;

(i) "superstitious practice" means any act, ritual, or practice performed based on irrational beliefs that cause harm, violence, exploitation, or deprivation of basic human rights or falsely claiming the ability to cure ailments through supernatural powers;

(j) "Task Force" means the Special Enforcement Task Force established under section 12 of this Act; and

(k) "witch-hunting" means accusations and acts of persecution, including physical or mental abuse, against an individual, especially women, on the grounds of alleged witchcraft or supernatural abilities.

CHAPTER II

PROHIBITION OF BLACK MAGIC AND WITCH-HUNTING

Prohibition of Black Magic and Superstitious Practices.

3. *(1)* No person shall promote, perform, or propagate black magic or superstitious practice that:

(a) exploits, deceives, or harms any individual or group of individuals; or

(b) is detrimental to public health or safety.

(2) Without prejudice to the generality of sub-section *(1),* the following acts are hereby prohibited:

(a) the invocation of supernatural powers through human sacrifice, ritual mutilation, or any other inhuman or degrading act, whether for personal or communal gain; and

(b) any practice or ritual that involves physical or mental torture, endangers human life, or violates human dignity.

Prohibition of Witch-Hunting.

4. *(1*) No person shall, by words, gestures, or any other means, accuse any individual of being a witch or practice any act of witch-hunting, including but not limited to:

(a) subjecting such individual to violence or torture, whether physical or mental; or

(b) subjecting such individual to discrimination, social ostracism, or public humiliation; or

(c) engaging in defamation or acts that harm the dignity or reputation of such individual.

(2) Without prejudice to the generality of sub-section *(1)*, the following acts are hereby prohibited:

(a) branding any person as a witch through rituals, ceremonies, or any symbolic acts;

(b) performing exorcism or any such practice involving physical harm, torture, or coercion of any individual; and

(c) organizing, inciting, or participating in public or private acts of humiliation or endangering the life, dignity or reputation of any individual in the name of witch-hunting.

Prohibition of false or misleading advertisements claiming supernatural abilities, magical remedies or black magic.

5. *(1)* No person shall, by any means of communication, including advertisements, promotions, or public announcements—whether in print, electronic, or digital form—claim or propagate the possession of supernatural abilities for:

(a) healing ailments or curing diseases; or

(a) exorcising spirits or entities; or

(c) achieving any physical, mental, or spiritual outcome through occult practices.

(2) Any misleading advertisement or any other form of communication, either in print, electronic or digital form related to magical remedy or black magic shall be deemed to be an offence under this Act and shall be liable to such punishment as provided under this Act.

CHAPTER III

PENALTIES AND PUNISHMENTS

Punishment for Black Magic and Superstitious Practices.

6. Whoever contravenes the provisions of section 3 shall be punished with imprisonment of either description for a term which may extend up to ten years and with fine, which shall not be less than one lakh rupees, and for any subsequent contravention with imprisonment of either description for a term which shall not be less than fifteen years and with a fine of five lakh rupees.

Punishment for Witch-Hunting.

7. Whoever contravenes the provisions of section 4 shall be punished with imprisonment of either description for a term which shall not be less than ten years and with fine, which shall not be less than five lakh rupees:

Provided that if the act of witch-hunting results in grievous harm or death of any person(s), the person shall be punished with death or imprisonment for life and shall also be liable to fine.

Punishment for Human Sacrifice.

8. Whoever performs, participates in, abets, or facilitates an act of human sacrifice shall be punished with death or imprisonment for life and shall also be liable to fine, which shall not be less than ten lakh rupees.

Punishment for abetment and attempt.

9. Whoever is found guilty of abetting or aiding the principal offender in committing or attempting to commit the offences under this Act, shall be liable for the same punishment as provided for that offence under the relevant provisions of this Act.

Public Shaming and Ostracism.

10. Any person or group of persons, who publicly shames, humiliates, or ostracizes any individual on accusations of practice of black magic, witchcraft, or any superstitious practice shall be punished with imprisonment for a term, which shall not be less than five years, but which may extend up to seven years, and with fine, which shall not be less than one lakh rupees.

Offences to be cognizable, non-bailable and non-compoundable.

11. Notwithstanding anything contained in any other law for the time being in force, every offence under this Act shall be cognizable, non-bailable and non-compoundable, except otherwise decided under exceptional circumstances by the Special Court so designated under section 13.

CHAPTER IV

SPECIAL ENFORCEMENT TASK FORCE

Establishment of Special Enforcement Task Force.

12. ***(1)*** **The Central Government shall, by notification in the Official Gazette, establish a Special Enforcement Task Force, under the administrative control of the Ministry of Home Affairs, to monitor and investigate cases related to black magic, witch-hunting, superstitious practice and other offences under the Act.**

(2) The Task Force shall have the power to conduct raids, collect evidence, and arrest individuals involved in offences under this Act and exercise such powers and perform such other functions and duties, as may be prescribed.

(3) **The Task Force shall consist of such number of law enforcement officers, forensic experts, and representatives from human rights organizations, to be appointed by the Central Government in such manner, as may be prescribed.**

(4) **The method of recruitment, qualifications and experience, salaries and allowances payable to and other terms and conditions of service of the persons appointed under sub-section *(3)* shall be such as may be prescribed.**

CHAPTER V

SPECIAL COURT

Designation of a court as Special Court.

13. *(1)* The appropriate Government shall, in consultation with the Chief Justice of the High Court, by notification in the Official Gazette, designate for each district, a Court of Session to be a Special Court for the purposes of providing a speedy trial on matters arising out of crimes or offences committed under this Act.

(2) Every Special Court designated under this Act shall follow the same procedure and have the same powers to hold any inquiry as are vested in a civil court under the Code of Civil Procedure, 1908 and in a criminal court under the Bharatiya Nagarik Suraksha Sanhita, 2023.

5 of 1908
46 of 2023

46 of 2023.

(3) Save as otherwise provided in this Act, the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Sessions and the person conducting a prosecution before a Special Court, shall be deemed to be a Public Prosecutor.

46 of 2023.

(4) Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, an appeal shall lie as a matter of right from any judgment, sentence or order, not being interlocutory order, of a Special Court to the High Court both on facts and on law, in a manner and within such time as may be prescribed.

(5) The appropriate Government shall in order to ensure speedy trial and disposal of cases under this Act, ensure that every trial proceeding before the Special Court and every appeal under this Act is disposed of within such period, as may be prescribed.

Special Public Prosecutor.

14. *(1)* The appropriate Government shall, by notification in the Official Gazette, appoint a Special Public Prosecutor for every Special Court, from amongst advocates with such number of years of practice, as may be prescribed, for conducting cases only under the provisions of this Act.

(2) Every person appointed as a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (v) of sub-section (1) of section 2 of the Bharatiya Nyaya Sanhita, 2023 and the provision of that Sanhita shall have effect accordingly.

46 of 2023

National Register of Offenders.

15. *(1)* The Task Force established under section 12 shall maintain a National Register of Offenders containing details of individuals convicted under the provisions of this Act, in such form and manner as may be prescribed.

(2) The Register shall be a public document, under section 74 of the Bharatiya Sakshya Adhiniyam, 2023 and shall be published on the website of the Task Force, in such form and manner as may be prescribed.

47 of 2023.

(3) The repeat offenders shall be placed under surveillance by the Task Force, and their activities shall be monitored by the local authorities and reported to the Task Force from time to time.

CHAPTER VI

PROTECTION AND REHABILITATION OF VICTIMS

Protection of victims and whistleblowers.

16. *(1)* **Every victim of black magic, witch-hunting, and superstitious practices or any of the crimes and offences under this Act shall be provided with immediate protection under the Witness Protection Scheme, 2018, including relocation and identity protection or as per directions or guidelines as may be prescribed.**

(2) **Any whistleblower who, provides information or report crimes and offences under this Act leading to the arrest of the offenders shall be granted protection from retaliation in any form and manner, in such manner as may be prescribed:**

Provided that any person(s) found guilty of issuing any threat or trying to harm or endanger, any whistleblower or their family members or property shall be punished with imprisonment for a term which shall not be less than seven years.

Victim Compensation Fund and compensation for victims.

17. ***(1)*** **The Central Government shall, by notification in the Official Gazette, establish a Fund to be called as the Victim Compensation Fund, which shall provide financial assistance and compensation to victims of black magic, witch-hunting, and other offences under this Act.**

(2) The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with granting of compensation to the victim or the family of the victim, as follows,—

(a) Every victim who has suffered physical or mental harm as a result of any crime or offence under the Act, shall be entitled to receive compensation, which shall not be less than five lakh rupees.

(b) In the event of death resulting from any crime or offence under the Act, the family of the deceased victim shall be entitled to receive a compensation of ten lakh rupees, from the fund.

(3) The procedure, mode and manner of disbursement of compensation under this section shall be such as may be prescribed by the Central Government.

Rehabilitation of victims.

18. ***(1)*** **The appropriate Government shall provide long term-rehabilitation support to the victim of any of the offences under this Act, including medical treatment, psychological counselling, and legal aid under the Legal Services Authorities Act, 1987, in such manner as may be prescribed.** 39 of 1987.

(2) **The appropriate Government shall establish and maintain such number of rehabilitation centers across all State, to provide support, specifically for victims of black magic, witch hunting and other superstitious practices, as may be prescribed.**

CHAPTER VII

PREVENTION AND PUBLIC AWARENESS

Public Awareness Campaigns.

19. ***(1)*** **The Central Government, in collaboration with the State Governments, shall launch a nationwide awareness campaign to educate citizens about the dangers of black magic, witch-hunting, and superstitious practice.**

(2) The media outlets, including television, radio, and digital platforms, shall be mandated to broadcast educational content on this subject.

(3) Every School and educational institution shall be mandated to include modules on scientific reasoning, critical thinking, and the dangers of superstitious practices in their curriculum.

CHAPTER VIII

MISCELLANEOUS PROVISIONS

Central Government to provide funds.

20. The Central Government, shall from time to time, after due appropriation made by Parliament by law in this behalf, provide adequate funds, as may be necessary, for carrying out the purposes of this Act.

Protection of action taken in good faith.

21. No suit, prosecution or other legal proceedings shall lie against the Government or any officer or authority of the Government or any other person for anything which is in good faith done or intended to be done under this Act.

Power to remove difficulties.

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

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

Act not in derogation of any other law.

23. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

Power to make Rules.

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

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

STATEMENT OF OBJECTS AND REASONS

The Prevention of Black Magic, Witch-Hunting, and Superstitious Practices Bill, 2024, seeks to address the serious social issues stemming from the prevalence of black magic, witch-hunting, and superstitious practices, which undermine rational thought and contribute to human rights violations, particularly against vulnerable groups such as women and the marginalised communities. These practices often result in violence, social discrimination, and exploitation, fuelled by ignorance and fear. The Bill aims to prohibit and criminalise these harmful actions, establish protections for targeted individuals, promote awareness and education to combat misinformation and create support mechanisms for victims. Ultimately, this legislation aspires to foster a safer, more equitable society that values reason and dignity over superstition and fear.

Hence this Bill.

SANJEEV ARORA

FINANCIAL MEMORANDUM

Clause 12 of the Bill provides for the establishment of a Special Enforcement Task Force with such number of law enforcement officers, forensic experts, and representatives from human rights organizations to monitor and investigate cases related to black magic, witch-hunting, superstitious practices and other offences under the Bill and also provides for the salaries and allowances payable to them and other terms and conditions of their service. Clause 16 provides for the protection of victims of offences under the Act and their next of kin under the Witness Compensation Scheme including relocation and identity protection and for the protection of whistleblowers against retaliation from the offenders. Clause 17 of the Bill provides for the establishment of a Victim Compensation Fund for the purpose of providing financial assistance and compensation to victims of black magic, witch-hunting, and other related crimes under this Bill. Clause 18 provides for the rehabilitation, including medical treatment, psychological counselling, and legal aid to the victims of crimes and offences under the Bill and for the establishment of rehabilitation centres for victims across all States to provide support to the victims. Clause 19 of the Bill provides that the Central Government, in collaboration with the State Governments, shall launch a nationwide awareness campaign to educate citizens about the dangers of black magic, witch-hunting, and other superstitious practices. Clause 20 provides that the Central Government shall provide adequate funds, as may be necessary, for carrying out the purposes of this Act.

The Bill, therefore, if enacted will involve expenditure, both of recurring and non-recurring nature, from the Consolidated Fund of India. However, it is difficult to estimate the exact expenditure likely to be involved at this juncture.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 22 of the Bill empowers the Central Government make such provisions through an order for removing any difficulty that might arise in giving effect to the provisions of the Bill. Clause 23 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.

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

XXXIX

Bill No. C of 2024

A Bill to prevent the sale of degrees by private Universities and ensure the maintenance of educational standards, integrity, and accountability in higher education, and to provide for matters connected therewith or incidental thereto.

WHEREAS it is expedient to prevent private Universities from engaging in the sale of degrees and related malpractices that undermine the credibility of Indian higher education to protect students, safeguard educational standards, and ensure accountability in the private education sector.

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 Private Universities (Prevention of Sale of Degrees) Act, 2024.

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

Definitions.

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

(a) "affiliate(s)" means educational institutions which can run degree or other equivalent programmes, but are not empowered to provide degree on their own and have to be necessarily attached with some private University for the purpose of awarding degree;

(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) "degree" means any academic title awarded by a private University or its affiliate(s), to a student or any other person in the name of certification, diploma, or degree after the successful completion of a prescribed course of study and examination, and duly recognized by the University Grants Commission or any other relevant authority or the appropriate Government, as the case may be;

(d) "degree fraud" refers to any fraudulent activity or illegal act involving the unauthorized sale, issuance, or procurement of degrees, diplomas, certificates, or academic titles;

(e) "private University" means a university duly established or incorporated by a private body, institution or trust through a Central/State Act or by any other corresponding law for the time being in force or enacted by the appropriate legislature and maintained by a private entity;

(f) "Regulatory Authority" means the University Grants Commission or any other body designated as such and notified by the appropriate Government in the Official Gazette under section 5 of the Act; and

(g) "sale of degree" means the practice of granting academic certifications in exchange for money, goods, or services, without requiring the recipient to complete the necessary academic course requirements.

(2) Words and expressions used herein and not defined, but defined in the University Grants Commission Act, 1956 or any other relevant law for the time being in force, shall have the same meanings respectively assigned to them in those Acts. 3 of 1956.

Prohibition of sale of degrees.

3. *(1)* No private University or its affiliate(s) shall engage in the sale, exchange, or any other form of financial transaction for granting academic degrees or certificates without requiring compliance with the prescribed academic standards.

(2) Any degree, diploma, or certification awarded in contravention of this section shall be null and void.

Mandatory Transparency and Disclosure.

4. Every private University and its affiliate shall,—

(i) maintain transparency in admissions, academic assessments, and awarding of degrees or certificates;

(ii) prepare and submit a detailed report of degrees or certificates conferred and the students' academic performance annually to the Regulatory Authority, so designated under Section 5 of this Act, in such form and manner as may be prescribed.

Regulatory Authority.

5. *(1)* The appropriate Government shall, by notification in the Official Gazette, designate the University Grants Commission (UGC) or any other body as the Regulatory Authority for the purposes of monitoring and enforcing the provisions of this Act.

(2) The Regulatory Authority so designated, shall have such powers and perform such functions as may be prescribed to ensure compliance with the provisions of this Act, including but not limited to:

(a) issue guidelines and advisories for the effective implementation of the Act;

(b) receive complaints or on its own initiative, investigate any suspected violations of this Act;

(c) conduct periodic audit of private Universities to verify compliance with academic and procedural standards and norms;

(d) exercise regulatory oversight over matters related to the sale of degrees by private Universities, if any, either *suo motu* or which may be brought to its notice and recommending appropriate actions, including prosecution or derecognition, as may be prescribed; and

(e) any other matter relating to this Act, which may be referred to it by the appropriate Government, from time-to-time.

Regulatory authority to have powers of a Civil Court.

6. The Regulatory Authority shall, while investigating any matter referred to in clause *(b)* or clause *(d)* of section 5, have all the powers of a Civil Court trying a suit and, in particular, in respect of the following matters, namely,—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents; and

(f) any other matter which may be prescribed.

Awareness and Reporting.

7. The Regulatory Authority shall, in collaboration with the appropriate Government, raise public awareness about the dangers of degree fraud and establish reporting mechanisms for complaints.

Establishment of a Grievance Redressal Mechanism.

8. *(1)* A dedicated Grievance Redressal Cell shall be established within the Regulatory Authority to address complaints and grievances specifically related to degree fraud and violation or contravention of any of the provisions of the Act, in such manner as may be prescribed.

(2) Any student, employee, or member of the public may submit complaints regarding suspected instances of illegal sale of degrees and violation or contravention of any of the provisions of the Act, in such form and manner as may be prescribed.

Offences.

9. *(1)* Any private University or its affiliate(s) or any individual shall be held guilty of an offence under this Act if they:

(a) issue, sell, or grant degrees or certificates without adherence to the prescribed academic and procedural standards and norms, as may be prescribed;

(b) facilitate or abet any activity leading to the unauthorized issue or sale or grant of academic degrees and certificates;

(c) submit false or misleading information to the Regulatory Authority regarding compliance with this Act;

(d) fail to maintain accurate academic records or provide such records when required or called for by the Regulatory Authority;

(e) obstruct or refuse to cooperate with inspections or inquiries by the Regulatory Authority or comply with the directions issued under this Act;

(f) violate or act in contravention of any of the provisions of this Act.

(2) The offences under this section shall be deemed to be cognizable and non-bailable.

Liability of an officer of the University.

10. *(1)* If it is proven that any offence under section 9 was committed with the consent or connivance of, or due to negligence by, any officer of the university, such officer shall also be deemed guilty of the said offence and be liable to punishment in accordance with the provisions of this Act.

(2) Where an offence under this Act is committed by a private University or its affiliate(s), the Chancellor, Vice-Chancellor, Registrar, Principal, Faculty and/or other persons responsible for the management thereof shall be deemed guilty unless they prove that the offence occurred without their knowledge or that they exercised due diligence to prevent it.

(3) Notwithstanding anything contained in sub-sections *(1)* and *(2),* no action shall be taken against any person for anything which is in good faith done or intended to be done under this Act.

Penalties.

11. *(1)* Any private University or its affiliate(s) found violating the provisions of this Act shall be liable to be punished with—

(a) a monetary fine, which may extend up to rupees one crore; and/or

(b) suspension of accreditation or affiliation, depending on the severity of the violation; and/or

(c) disqualification of specific academic programs or all programs until remedial action is undertaken.

(2) Any individual, including officials or faculty of a private University or its affiliate(s), proven to be involved in the sale of degrees or certificates or found guilty of any of the offences under Section 9 shall be punished with—

(a) a monetary fine, which may extend up to rupees ten lakh; and/or

(b) suspension or permanent disqualification from holding any position in any educational institution.

Protection for Whistleblowers.

12. *(1)* Any person who, in good faith, reports instances or files a complaint regarding the illegal sale of degrees or violation or contravention of any of the provisions of this Act shall be entitled to protection against retaliation, including but not limited to:

(a) dismissal, suspension, or demotion from employment;

(b) discrimination in terms of employment conditions or opportunities;

(c) any form of harassment, whether physical, psychological, or professional.

Provided that any such retaliatory action taken by any organization, body or individual(s) against a whistleblower shall be deemed as a punishable offence and shall be liable to be punished as per the provisions of this Act or any other relevant law for the time being in force.

(2) The identity of whistleblower(s) and the contents of their complaints shall remain confidential and shall not be disclosed except:

(a) when required by law or judicial process; or

(b) to the extent necessary for conducting an effective investigation or proceeding under this Act, in which case adequate measures shall be taken to protect the whistleblower's identity; or

(c) any other circumstances, as may be prescribed.

Act not in derogation 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 and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

Power to make rules.

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

(2) Every rule made 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.

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

STATEMENT OF OBJECTS AND REASONS

The purpose of this Bill is to address the serious issue of degree selling by private Universities, which undermines the credibility of Indian higher education and devalues legitimate academic achievements. By enacting stringent penalties and establishing an enforcement mechanism, this Bill aims to maintain the integrity of academic qualifications, protect students from degree fraud, instill confidence in the education system and preserve the reputation of Indian education on a global level. The Bill also seeks to provide necessary safeguards for whistleblowers, so that students and general public can fearlessly report cases of degree fraud and other violations of the provisions of the Bill and bring the guilty to justice.

Hence this Bill.

IMRAN PRATAPGARHI

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.

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

XL

Bill No. LXXVII 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 Constitutional (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 the Seventh Schedule to the Constitution, in List III-Concurrent List, after entry 17B, the following entry shall be inserted, namely:— Amendment of the Seventh Schedule.

"17C. Ocean and marine ecosystem protection, environmental protection and matters relating to climate change."

STATEMENT OF OBJECTS AND REASONS

The Constitution understands the importance of protecting and improving the environment and safeguarding forests and wildlife in the Directive Principles of State Policy. However, there is an increase in the urgency of climate protection due to the recent developments in climate change, which is having severe negative repercussions. The Tiwari Committee, set up in 1980, highlights the need to ramp up efforts to conserve the environment in order to promote sustainable development. Currently, no provisions are available in the Constitution that specifically address ocean and marine ecosystem protection, environmental protection and matters relating to climate change. Many of the laws pertaining to the ocean environment, marine ecosystem and climate change have been derived from other entries in the Seventh Schedule to the Constitution, which reduces efficiency. The addition of the said entry in the Seventh Schedule to the Constitution will lead to the formation and implementation of more robust and transparent policies in this sphere. This Bill seeks to address this issue.

Hence this Bill.

SAGARIKA GHOSE

XLI

Bill No. XC of 2024

A Bill to provide for mandatory rainwater harvesting in the buildings of government establishments and schools to promote water conservation, offset the challenges of water scarcity 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 Rainwater Harvesting in Government Establishments and Schools Act, 2024.

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

Declaration of compulsory rainwater harvesting as a duty of the State in public interest.

2. It is hereby declared that it is expedient in the public interest that the State shall take adequate and urgent measures to provide for compulsory rainwater harvesting to achieve water security and control the depletion of water table to the extent hereinafter provided.

Definitions.

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

(a) "building" includes all such structures, sheds, houses and buildings which are wholly or partially owned, possessed built or occupied by the Government of India as may be notified by the Government under this Act;

(b) "Government" means the Central Government or the Union territory Administration, as the case may be;

(c) "Government establishment" means an establishment which is owned, established, controlled, managed or financed by the Central Government and includes—

(i) a Ministry or department or subordinate office or attached office of the Central Government;

(ii) a public sector undertaking or statutory authority constituted under any Central Act;

(iii) a corporation in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government; and

(iv) a Government company as defined under clause *(45)* of section 2 of the Companies Act, 2013.

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

(e) "rainwater harvesting" means collection and storage of rainwater from rooftop of a building or other parts of a building or from a vacant land for use or for the purpose of groundwater recharge.

(f) "school" means any recognised school imparting education from Class 1 to Class 12 and includes—

(i) a school established, owned or controlled by the appropriate Government or a local authority;

(ii) an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;

(iii) a school belonging to specified category under the Right to Free and Compulsory Education Act, 2009; and

(iv) an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority.

Explanation.— For the purposes of this clause, the expression "appropriate Government" shall mean 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.

Mandatory rainwater harvesting.

4. ***(1)*** **Notwithstanding anything contained in any other law for the time being in force, it shall be mandatory to construct and provide necessary infrastructure for rainwater harvesting in buildings of government establishments and schools in such manner and within such time as may be prescribed.**

Provided that the Government shall make it mandatory for constructing and developing rainwater harvesting in houses built under

the Pradhan Mantri Awas Yojana in Rural and Urban areas.

(2) The Government establishment shall notify an officer who shall be responsible for ensuring that the already installed rain water harvesting systems and/or that are installed in future, work efficiently and are maintained properly.

(3) The Central Government shall review the progress of rain water harvesting in Government establishments and schools, from time to time, in such manner as may be prescribed.

5. Within six months of the coming into force of this act, the Government shall formulate a policy to promote and incentivize the practice of rainwater harvesting through development of appropriate technology and traditional practices. Policy to promote rainwater harvesting.

6. ***(1)* The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds, from time to time, for carrying out the purposes of this Act.** Central Government to provide requisite funds.

***(2)* The Central Government shall provide financial assistance in the form of grants and necessary technical assistance to the State Governments for the purpose of implementing the provisions of this Act in schools under their jurisdiction.**

7. *(1)* The Central Government shall be responsible for the implementation of the provisions of this Act in Government establishments and schools under its jurisdiction. Responsibility of the Central Government

(2) The Central Government shall issue broad policy guidelines, technical standards, and recommendations for the installation, operation, and maintenance of rainwater harvesting systems in Government establishments and schools.

(3) The Central Government shall monitor the overall progress of implementation of the provisions of this Act across all States and ensure due compliance with the prescribed guidelines, in such manner as may be prescribed.

8. *(1)* The State Governments shall be responsible for the implementation of provisions of this Act in schools under their jurisdiction, in accordance with the guidelines issued by the Central Government under sub-section *(2)* of section 7. Role of the State Governments.

(2) The State Governments shall submit a report on the progress of implementation of the provisions of this Act in schools under their jurisdiction, the reasons for delay, if any, and the utilization of financial grants received from the Central Government under this Act, to the Central Government, in such form and manner and at such intervals of time, as may be prescribed.

9. The Central Government shall prepare a consolidated report on the progress of implementation of the provisions of this Act and the activities undertaken thereunder as well as the utilization of funds granted for the purpose in each financial year along with audit report thereon and cause the same to be laid before each House of Parliament. Central Government to lay report.

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

11. *(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 under this Act shall be laid, as soon as may be after it is

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

STATEMENT OF OBJECTS AND REASONS

India faces a significant water crisis due to increasing demand, rapid urbanization, and dwindling natural water sources. Rainwater harvesting has emerged as a vital method for conserving water, replenishing groundwater levels, and reducing dependence on external water sources. The Rainwater Harvesting in Government Establishments and Schools Bill, 2024 seeks to address India's water scarcity issues by mandating the installation and maintenance of rainwater harvesting systems in all government buildings, offices, and schools. By institutionalizing rainwater harvesting, this Bill aims to promote sustainable water use and ensure water security for future generations.

According to recent studies, India's per capita water availability has declined drastically over the years, and the country is now classified as a water-stressed nation. Many regions, especially urban and semi-urban areas, experience severe water shortages during the summer months, leading to socio-economic challenges, health issues, and environmental degradation. Rainwater harvesting is a feasible and cost-effective method to mitigate water scarcity. It allows rainwater to be collected, stored, and either used directly or used to recharge groundwater, providing a sustainable water source even during dry periods.

The Bill recognizes that government buildings and schools occupy a significant amount of land and infrastructure across India. These buildings, if equipped with rainwater harvesting systems, could collect substantial amounts of rainwater, thereby contributing positively to the water table and alleviating local water scarcity. Furthermore, as schools are centers of education, implementing rainwater harvesting in these institutions also serves to promote awareness among the younger generation, encouraging sustainable water practices from an early age.

Furthermore, by providing financial incentives and encouraging the development of new rainwater harvesting technologies, the Bill incentivizes innovation in water management practices. This will spur advancements in rainwater harvesting techniques, allowing the country to adopt modern, efficient, and cost-effective methods that maximize water collection and utilization.

In conclusion, the Rainwater Harvesting in Government Establishments and Schools Bill, 2024 represents a transformative approach to tackling India's water scarcity. By institutionalizing rainwater harvesting in government facilities, this Bill seeks to harness rainwater effectively, improve groundwater recharge, and instill sustainable water management practices. It is anticipated that these measures will significantly contribute to achieving India's water security goals and set an example for private and residential buildings to adopt similar practices. The Bill thus addresses a pressing environmental and social need, laying the groundwork for a future where every drop of rainwater is conserved and utilized responsibly.

Hence this Bill.

SANJAY SETH

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that it shall be mandatory to construct and provide necessary infrastructure for rainwater harvesting in buildings of government establishments and schools in such manner and within such time as may be prescribed. Clause 6 of the Bill provides that Central Government shall, after due appropriate made by Parliament by law in this behalf, provide requisite funds, from time to time, for carrying out the purposes of this Act.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to give an exact estimate of expenditure, both recurring and non-recurring, which will be involved from the Consolidated Fund of India, if the Bill is enacted into a law. However, it is estimated that a recurring expenditure of about rupees two hundred crore will be involved per annum from the Consolidated Fund of India.

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

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

XLII

Bill No.XCIX of 2024

A Bill to provide compulsory self-defence training in all educational institutions in order to create preparedness amongst youth of the nation for self-protection and as a proactive measure to enhance student safety, promote personal empowerment, and foster a supportive educational environment 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,—

Short title and commencement.

1. *(1)* This Act may be called the Compulsory Self-Defence Training in Educational Institutions Act, 2024.

(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 —

(i) in relation to a educational institution established, owned or controlled by the Central Government, or the administrator of the Union territory, having no legislature, the Central Government;

(ii) in relation to a educational institution, other than the school referred to in sub-clause *(i),* established within the territory of

(A) a State, the State Government;

(B) a Union territory having legislature, the Government of that Union territory;

(b) "educational institution" means any school, college, University or other institution imparting education at primary, secondary, senior secondary or higher education, whether directly owned by the Government or local authority, or an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority, or unaided institution not receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority, as the case may be;

Explanation.– For the purposes of this clause, "local authority" means a Municipal Corporation or Municipal Council or Zila Parishad or Nagar Panchayat or Panchayat, by whatever name called, and includes such other authority or body having administrative control over the school or empowered by or under any law for the time being in force to function as a local authority in any city, town or village;

(c) "Fund" means the Self-Defence Training Fund established under section 6;

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

(e) "self-defence training" includes basic and advanced self-defence training in skills that are necessary for self-protection, as defined under section 4 or as may be prescribed; and

(f) "student" means any person enrolled in an educational institution.

Compulsory Self-Defence Training to students.

3. *(1)* The appropriate Government shall include in the curriculum, compulsory basic self-defence training for students of classes First to Eighth and advanced self-defence training for students of classes Eighth to Twelfth and at undergraduate level.

(2) The self-defence training referred to in sub-section *(1)* shall be conducted for a minimum of three hours per week by the educational institutions.

***(3)* Every educational institution shall, in consultation with the appropriate Government, establish a Self-Defence Training Advisory Committee (STAC) to manage and coordinate the self-defence training activities being conducted therein, in such manner as may be prescribed**.

(4) The composition, powers, functions of the Self-Defence Training Advisory Committee (STAC) established under sub-section *(3)*and any other matters relating thereto, shall be such as may be prescribed.

(5) The Self-defence Training Advisory Committee (STAC) established under sub-section *(3)* shall submit quarterly reports on the progress and effectiveness of the self-defence training programs to the appropriate Government in such form and manner as may be prescribed.

Curriculum and Training Modules for Self-defence training to students.

4. *(1)* The appropriate Government shall, in consultation with the Union Ministry of Youth Affairs and Sports and the Union Ministry of Education, prescribe the curriculum and training modules for self-defence training to students.

(2) The curriculum and training module for basic self-defence training to students shall include,

(a) physical fitness exercises;

(b) Karate;

(c) aikido;

(d) kickboxing and krav maga;

(e) drill and ceremonial parades;

(f) awareness of the concept of good touch-bad touch; and

(g) such other activity or program, as may be prescribed.

(3) The curriculum and training module for advanced self-defence training to students shall in addition to the skills enumerated in sub-section *(2)* include,

(a) mixed Martial Arts training;

(b) psychological counselling;

(c) course on advocacy and legal rights; and

(d) such other activity or program, as may be prescribed.

Training Instructors.

5. ***(1)* The appropriate Government shall, in consultation with the Union Ministry of Youth Affairs and Sports, appoint such number of instructors, as may be required, for imparting self-defence training to students in all educational institutions in such manner as may be prescribed.**

***(2)* The method of recruitment, qualifications and experience, salaries and allowances payable to and other term and conditions of service of the instructors so appointed under sub-section *(1),* shall be such as may be prescribed.**

Establishment of Self-Defence Training Fund.

6. ***(1)* The appropriate Government, shall by notification, in the Official Gazette, establish a separate Fund to be known as the Self-Defence Training Fund, for the purposes of implementing the provisions of this Act.**

***(2)* The Central and State Governments shall, from time to time, after due appropriation made by Parliament and the State Legislature respectively, by law, contribute to the Fund,**

(3) The Fund shall be applied by the appropriate Government to meet the expenditure incurred in connection with measures and facilities which, in the opinion of that Government, are necessary or expedient to effectively implement the provisions of this Act, and in particular the following, namely,—

(a) administrative and operational costs incurred under this Act;

(b) financial assistance to educational institutions for infrastructure development including equipments and other gear required for the purpose of imparting self-defence training;

(c) resources for capacity building and training of instructors; and

(d) any other expenses, as may be deemed necessary, for the purposes of this Act.

Compliance.

7. *(1)*The appropriate Government shall ensure that every educational institution complies with the provisions of this Act.

(2) The appropriate Government shall designate an officer, not below the rank of District Education Officer, to oversee and ensure the implementation of the provisions of this Act within their jurisdiction.

Penalty.

8. If any educational institution fails to comply with any of the provisions of this Act, such educational institution shall be liable to a fine, which may extend up to ten thousand rupees.

Act not in derogation of any other law.

9. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have over riding effect on the provisions of any such law to the extent of the inconsistency.

Power to remove the difficulties

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

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

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

Power to make rules and regulations.

11. *(1)* The Central Government may, by notification in the Gazette of India, make rules and regulations for carrying out the purpose of this Act.

(2) Every rule and regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule and regulation or both the Houses agree that the rule and regulation should not be made, the rule and 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 and regulation.

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

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to introduce compulsory self-defence training in all educational institutions to foster physical fitness, sense of preparedness amongst the youth, establish self-defence orientation and training programmes for students, which caters to all their needs to empower themselves. The primary objective of this Bill is to enhance the safety and security of students in educational environments by making self-defence training a compulsory part of the curriculum.

Given the rising concerns about bullying, violence, sexual offences and potential threats in educational institutions, this initiative aims to empower students with the skills and confidence necessary to protect themselves and others.

Self-defence training equips students with essential skills to handle threatening situations effectively. By fostering awareness and preparedness, students can better protect themselves from physical harm. It can also boost students' confidence and self-esteem. It also promotes conflict-resolution and non-violent strategies, creating a more positive school climate.

Self-defence training emphasizes discipline, respect, and responsibility. These values are integral to personal development and can contribute to a more respectful and inclusive environment in educational institutions. Self-defence training will serve as a critical component of broader safety education, helping students to respond effectively in various situations.

By implementing this training at a community level, we will be able to foster a culture of safety and vigilance, where students, educators, and parents collaborate to create a secure environment for learning.

In conclusion, this Bill seeks to implement compulsory self-defence training in educational institutions as a proactive measure to enhance student safety, promote personal empowerment, and foster a supportive educational environment. By equipping our youth with these vital skills, we will be able to contribute to the development of a more resilient and secure generation.

Hence, this Bill.

SANJAY SETH

FINANCIAL MEMORANDUM

Clause 3 of the Bill *inter alia* provides that every educational institution shall, in consultation with the appropriate Government, establish a Self-Defence Training Advisory Committee (STAC) to manage and coordinate the self-defence training activities being conducted therein, Clause 5 of the Bill provides for the appropriate Government to appoint adequate instructors for imparting self-defence training to students in all educational institutions and for the salaries and allowances payable to them and their terms and conditions of service. Clause 6 of the Bill provides for the establishment of a Self-Defence Training Fund for the purposes of implementing the provisions of this Act and that the Central and State Governments shall, from time to time, after due appropriation made by Parliament and the State Legislature respectively, contribute to the 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 10 provides that the appropriate Government may, make such provision, by an order, as necessary for removing any difficulty in giving effect to the provisions of this Bill. Clause 11 empowers the appropriate Government to make rules and regulations to carry out the provisions of this Bill.

As the matters in respect of which orders, rules and regulations may be made are matters of procedure and administrative details only, the delegation of legislative power is, therefore, of a normal character.

XLIII

Bill No. XCIII of 2024

A Bill to amend the Code on Social Security, 2020.

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 Code on Social 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 2.

2. In the Code on Social Security, 2020 (hereinafter referred as the Code), in section 2, —

(i) in sub-section *(24),* in clause *(a),* after the existing proviso, the following proviso shall be inserted, namely, –

"Provided further that a married daughter, who is financially reliant on the deceased employee shall also be deemed to be a dependent;"

(ii) for sub-section *(26)*, the following shall be substituted, namely, —

"employee" means any individual, excluding apprentices engaged under the Apprentices Act, 1961, who is employed on wages by an establishment, either directly or through a contractor, to perform skilled, semi-skilled, or unskilled tasks, including manual, operational, supervisory, managerial, administrative, technical, clerical, or any other work, including Anganwadi workers and Accredited Social Health Activists (ASHA), whether under express or implied terms of employment, and any individual declared as an employee by the appropriate Government, but excludes members of the Armed Forces of the Union. 52 of 1961.

Provided that for the purposes of Chapter III, except in the case of the Employees' Provident Fund Scheme, and Chapter IV, the term "employee" shall mean any employee, irrespective of any wage ceiling, and shall include such other persons or classes of persons as the Central Government may, by notification, specify as employees for the purposes of those Chapters;"

(iii) for sub-section *(33)*, the following shall be substituted, namely,—

"family" means family, as defined under the relevant provisions of the Employees' Provident Fund Scheme, 1952 framed under section 5 of the Employees' Provident Funds Act, 1952, the Employees' State Insurance Act, 1948, and the Payment of Gratuity Act, 1972;" 19 of 1952. 34 of 1948. 39 of 1972.

(iv) for sub-section *(35)*, the following shall be substituted, namely,—

"gig worker" means a person who performs work or participates in a work arrangement and earns from such activities outside of a traditional employer-employee relationship, specifically in task-based, temporary or project-oriented engagements, including but not limited to online and platform-based services;"

(v) after sub-section *(53)*, the following new sub-section shall be inserted, namely,—

"(*53*A) "online platform" means a digital or electronic medium, website, application, or technology-enabled interface that facilitates interaction between users and service providers, allowing individuals to offer or accept specific tasks, services, or assignments in exchange for payment or remuneration;"

(vi) for sub-section *(61)*, the following shall be substituted, namely,—

"platform worker" means a person performing work on or through a digital or online platform for an organisation or individual;"

(vii) for sub-section *(75)*, the following shall be substituted, namely,—

"self-employed worker" means any person who is not employed by an employer but engages independently in any occupation, including gig or platform work, where earnings are variable or derived from non-traditional work arrangements, and is subject to a monthly income of an amount as may be notified by the Central Government or the State Government, as the case may be, from time to time;"

(viii) for sub-section *(78)*, the following shall be substituted, namely,—

"social security" means the measures of protection afforded to employees, unorganised workers, gig workers, platform workers, agriculture wage workers, domestic workers, street vendors, and bidi workers to ensure access to health care and to provide income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by means of rights conferred on them and schemes framed, under this Code;"

Insertion of new section 7A.

3. In the Code, after section 7, the following new section shall be inserted, namely, —

Digital compliance and record keeping

"**7A.** *(1)* The Social Security Boards established under this Code, shall implement a digital compliance system to maintain records, monitor compliance with the provisions of this Act, and facilitate efficient data management.

(2) The Central Government may, by notification in the Official Gazette, prescribe standards for digital compliance, data privacy, and cyber security to safeguard the integrity and confidentiality of all records maintained by the Boards."

Amendment of section 28.

4. In the Code, in section 28, after sub-section *(2)*, the following new sub-section shall be inserted, namely, —

"*(3)* Notwithstanding anything contained in any other law for the time being in force, Anganwadi workers and Accredited Social Health Activists (ASHA) and Anganwadi workers shall be eligible for medical benefits, disability coverage, and life insurance benefits under the Employees' State Insurance Corporation (ESIC), including access to healthcare services, hospitalization, maternity benefits, and compensation for workplace injuries and fatalities subject to the applicable provisions of the Employees' State Insurance Act, 1948, or any modifications thereof."

34 of 1948

Amendment of section 53.

5. In the Code, in section 53, —

(i) in sub-section *(1),*–

(a) for the words "five years", wherever they occur, the words "two years" shall be substituted;

(b) in the first proviso for the words "three years", the words "two years" shall be substituted; and

(ii) after sub-section *(6)*, the following new sub-section shall be inserted, namely,—

"*(7)* Notwithstanding anything contained in this section, the requirement of two years of continuous service for gratuity eligibility shall apply uniformly to all categories of employees, including contract labourers, seasonal workers, piece-rate workers, fixed-term employees, daily wage workers, and monthly wage workers."

STATEMENT OF OBJECTS AND REASONS

The Code on Social Security, 2020, was a landmark initiative by the Union Government aimed at consolidating laws relating to social security with the goal of providing social protection to all workers, including those in the unorganised sector. However, various stakeholders and the feedback from the Parliamentary Standing Committee highlighted the need to further refine the Code to ensure inclusivity, fairness and adaptability. This Amendment Bill further refines the provisions designed to enhance social security coverage and align the Code with contemporary work structures. The Bill clarifies and expands on various definitions to acknowledge the importance of flexible work arrangements. Further, the Bill extends social security to previously excluded groups and introduces digital tools to streamline compliance. The Amendment Bill fulfils the objective of creating a more inclusive and efficient social security system.

The Code on Social Security (Amendment) Bill, 2024, seeks to extend and strengthen social security coverage for diverse segments of India's workforce. The proposed amendments align with the Government's objective of building a comprehensive and inclusive social security system, ensuring that all workers, including those in informal, gig, platform-based, and self-employed roles, have access to essential protections.

Key revisions are introduced to clarify and expand the definitions of terms critical to the Code, such as "employee," "gig worker," "platform worker," and "self-employed worker," recognizing emerging forms of employment and non-traditional work arrangements. This includes extending social security benefits to groups like Anganwadi and Accredited Social Health Activists (ASHA), acknowledging their invaluable contribution to community welfare. By substituting the definitions of gig and platform- workers in the Code, the amendment addresses the unique needs of those engaged in task-based, online, or freelance arrangements. Defining terms like "online platform" provides a structured approach to managing the digital workspace, accommodating new economic models.

The Amendment Bill introduces provisions for "dependent married daughters" to be eligible for benefits, enhancing support for families of deceased employees. Changes to the Code also propose a reduction in the qualifying period for gratuity eligibility from five years to two years, extending this benefit to categories of workers traditionally excluded, including contract labourers and daily wage earners.

In response to the increasing digitization of records and compliance, a new section mandates the establishment of a digital compliance system by Social Security Boards. This system will ensure efficient record-keeping, robust data management, and strengthened cyber security. The Amendment Bill further ensures that ASHA and Anganwadi workers are included under the Employees' State Insurance Corporation (ESIC), making them eligible for medical, disability, and life insurance benefits. This provides these workers with crucial healthcare and financial protections.

Overall, the proposed amendments reflect the Government's commitment to enhancing labour welfare, especially for workers in the informal and emerging sectors. By addressing the evolving nature of work, improved benefits for vulnerable groups, and advancing digital compliance, this Bill lays the foundation for a more inclusive and responsive social security framework in India.

Hence, this Bill.

SANJAY SETH

XLIV

Bill No. CII of 2024

A Bill to provide an all-inclusive legal framework to protect the Fundamental Right to Privacy of humans, prevent Voyeurism, provide consumer centric law and for matters connected therewith or incidental thereto.

WHEREAS, the State uphold the dignity and privacy of every human being and guarantees full respect for human rights, and the State shall take necessary measures to prevent and penalise acts that would destroy the honour and dignity of a person;

AND WHEREAS, the rapid technological development has led to easy availability and use of spy and web cameras, CCTVs, smartphones, computers, spying software, eavesdropping devices, deepfake software, high-speed internet, Artificial Intelligence and other new instruments in the market and various new methods and modus operandi leading to an increase in cases breach of privacy;

AND WHEREAS, the offence of video voyeurism, compounded by its persistent dissemination, results in irreparable harm to the victims and necessitates the enactment of a preventive legal framework;

AND WHEREAS, there is an absence of a separate, exhaustive, preventive and remedial legislation against Voyeurism and on Right to Privacy;

AND WHEREAS, Voyeurism results in the violation of a person's human right and fundamental Right to Privacy and life under article 21 of the Constitution of India;

AND WHEREAS, there is a need to frame a new, improved and comprehensive definition of Voyeurism which will cover various other aspects of breach of privacy;

AND WHEREAS, the Right to Privacy is a gender-neutral right, and there is a need for a gender-neutral law on privacy;

AND WHEREAS, there is a need to designate Special Courts for the trial of Voyeurism offences and to set up a hassle-free administrative mechanism for providing compensation to victims;

AND WHEREAS, there is a need to establish specialized bureaus, Voyeurism-Free standard mark, the licencing authority for Establishments and Registrar for sensitive service providers to certify as Voyeurism-Free, Privacy-Protected and Safe, to eliminate the fear in the minds of the users thereof, set up a takedown mechanism and strike down the copyright of accused and convicted persons over the Voyeuristic material;

AND WHEREAS, there is a need to enact a separate, all-inclusive and broad legal framework on the Right to Privacy to protect various aspects of privacy including privacy of human body, communication privacy, location privacy and data confidentiality;

AND WHEREAS, there is a need to establish a procedure by law as per conditions stipulated in article 21 of the Constitution of India for depriving the privacy of a person in exceptional cases, in good faith and also in view of the doctrine of necessity and fair trial.

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

CHAPTER I

PRELIMINARY

Short title and commencement.

1. *(1)* This Act may be called the Voyeurism (Prevention, Prohibition and Redressal) Act, 2024.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States and for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

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

(1) "abandoned widow" means a widow who has been deserted or thrown out of the household by her relatives to fend for herself and who has no means to support herself and her dependent children, if any;

(2) "accredited NGO" means a Non-Governmental Organisation working exclusively for the prevention of voyeurism for a minimum period of three years and recognized as such by the Registrar of the National Bureau in the manner as may be prescribed;

(3) "advocate" shall have the same meaning as ascribed to it in the Advocates Act, 1961; 25 of 1961.

(4) "architect" means a person registered as an architect under the provisions of the Architects Act, 1972; 20 of 1972.

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

(6) "Bureau" means the National, State or District Anti-Voyeurism Bureau established or constituted under this Act, as applicable;

(7) "blind person" means a person who has any visual impairment as defined under the Rights of Persons with Disabilities Act, 2016; 49 of 2016.

(8) "capture" includes the capture of images and recording of videos and sounds;

(9) "CCTV" and in its full form "Closed-circuit Television" means a computer system that uses video cameras, mikes or recorders to transmit a signal to a specific place, such as a limited set of monitors or computer devices, and includes spy cameras, pinhole cameras and other hidden cameras;

(10) "child" shall have the same meaning as ascribed to it in the Protection of Children from Sexual Offences Act, 2012; 32 of 2012.

(11) "community service" means unpaid work which a person is required to perform as a punishment for an offence committed under this Act with the intention to rehabilitate the offender and provide services beneficial to the community but does not include any religious activity or service;

(12) "computer" shall have the same meaning as ascribed to it in the Information Technology Act, 2000; 21 of 2000.

(13) "deepfake" means a technological outcome powered by artificial intelligence that uses a machine learning model to manipulate, morph, edit or superimpose existing images, videos or audio to create a new piece of content that appears to be authentic but is actually fabricated;

(14) "dissemination" means the act of transmitting, selling, broadcasting, sharing, showing, promoting, publishing, or exhibiting the information of voyeuristic material to one or more person or third person as the case may be, through VCD, DVD, memory card, pen drive, internet, computers, smartphones, software and similar means or devices or by copying, reproducing or advertising;

Explanation:— For the purposes of this clause, "broadcasting" shall have the same meaning as ascribed to it in the Prasar Bharati (Broadcasting Corporation of India) Act, 1990; 25 of 1990.

(15) "Engineer" means a person who possesses a Bachelor's degree or equivalent qualification from an institution recognised by the All-India Council of Technical Education or any University or any institution recognised under a law or is registered as an engineer under any law for the time being in force;

(16) "establishment" means—

(i) anybody or authority established by or under a Central Act or a State Act or an authority or a body owned or controlled or aided by the Government or a local authority, or a Government company as defined in section 2 of the Companies Act, 2013, and includes a Department of the Government; or 8 of 2013.

(ii) any entity, company or body, corporate or association or body of individuals, firm, cooperative or other society, association, trust, agency, institution, shop and its branches;

whether the property or premises of such establishment is fixed or temporary, movable or immovable; and which provides to the public its physical premises for a private act, where the users entrust their right to privacy to that establishment and where voyeurism is likely to take place; and such establishments as the Central Government may, on recommendations of the National Bureau, by notification in the Official Gazette, declare under the First Schedule to be an establishment for the purposes of this Act;

(17) "film" shall have the same meaning ascribed to it in the Cinematograph Act, 1952; 37 of 1952.

(18) "hidden camera" means a camera whose position is hidden from public view and used to capture information secretly and may also be termed as spy camera;

(19) "information" shall have the same meaning ascribed to it in the Information Technology Act, 2000 or the Right to Information Act, 2005, depending on the context in which it is used; 21 of 2000. 22 of 2005.

(20) "intermediary" shall have the same meaning as ascribed to it in the Information Technology Act, 2000 and shall also include websites and software applications that provide static data, that do not provide user-generated content and that which may be prescribed; 21 of 2000.

(21) "licencing authority" means the Superintendent of the District Bureau under this Act;

(22) "person with mental disability" includes persons of unsound mind, lunatic persons, or persons with any similar disorder, which renders the person incapable of understanding the nature and consequences of the act committed by such person and includes—

(i) a person with mental illness as defined under clause *(s)* of section 2 of the Mental Healthcare Act, 2017; and 10 of 2017.

(ii) any other category of person as may be specified by the Central Government, by notification in the Official Gazette, on the recommendations of a competent authority designated under this Act;

(23) "NGO" means Non-Governmental Organization registered under section 8 of the Companies Act, 2013 or the Societies Registration Act, 1860 or the Maharashtra Public Trusts Act, 1950 or other State Legislations concerning Charitable Trusts or any other voluntary association registered under any other law for the time being in force; 18 of 2013. 21 of 1860. 29 of 1950.

(24) "orphan" means a person who has not completed twenty-five years of age and,

(*i*) who is without biological or adoptive parents or legal guardian; or

(ii) whose legal guardian is not willing to take or capable of taking care of the person;

(25) "*pardanashin* woman" means a woman who, according to custom, lives a secluded life, lives only within the family, does not appear in public and has no communication with any other person except for a few near relatives;

(26) "person belonging to an economically backward class" means a person recognized as such by the laws of the Union and respective States or as may be prescribed;

(27) "pornography" or "porn" means consensually captured verbal or visual depiction of sexually explicit conduct of persons intending to elicit significant sexual arousal and entertainment on the part of the consumer of such material

and includes books, photographs, statues, videos, cartoons, digital or computer-generated images and material created, adapted or modified to depict the same;

(28) "public place" means a place which is open and accessible to all of the public and is not a place exclusively used for private or personal purposes or has been notified as such by the appropriate Government;

(29) "public servant" shall have the same meaning as ascribed to it under sub-section *(28)* of section 2 of the Bharatiya Nyaya Sanhita, 2023 and includes members, officers and other employees of the Bureaus under this Act;

45 of 2023.

(30) "premises" shall have the same meaning as ascribed to it in the Public Premises (Eviction of Unauthorized Occupants) Act, 1971;

40 of 1971.

(31) "prescribed" means prescribed by rules made by the appropriate Government under this Act;

(32) "Register of sensitive service providers" means the register of sensitive service providers maintained by the Registrar of the National Bureau in such form and in such manner as may be prescribed under this Act;

(33) "sensitive service provider" means service providers other than an establishment defined under this Act, which gains access to the privacy of an individual, whether physically or virtually, in the course of providing services, and includes—

(i) service providers or service centres, which provide local repair services for smartphones, digital devices, or similar equipment;

(ii) doorstep service providers including but not limited to, technicians for geysers, air conditioners or computers, electricians, carpenters, civil contractors, plumbers, or similar equipment;

(iii) intermediaries;

(iv) software service providers; and

(v) and any other category of services as may be notified by the appropriate Government in the Second Schedule;

(34) "sextortion" means the unwarranted demand for,—

*(i)*sexual favours by a person in authority or in exchange for something in their power to grant or withhold; or

*(ii)*sexual or other illegal favours by any person threatening to disseminate voyeuristic material of the victim or of any person in whom the victim is interested or to harm such persons, employing physical or non-physical, online or offline forms of coercion.

(35) "third gender" means persons who do not identify as exclusively male or female, including individuals whose gender identity, expression, or lived experience does not conform to societal expectations of binary gender roles, and includes—

(i) transgender persons as defined under section sub-section *(k)* of section 2 of the Transgender Persons (Protection of Rights) Act, 2019; or

40 of 2019.

(ii) individuals with intersex variations as defined under sub-section *(i)* of section 2 of the Transgender Persons (Protection of Rights) Act, 2019;

(36) "victim" shall have the same meaning as ascribed to it under clause (y) of sub-section *(1)* of section 2 of the Bharatiya Nagarik Suraksha Sanhita, 2023;

46 of 2023.

(37) "voyeur" means a person who is convicted for the offence of voyeurism under this Act;

(38) "voyeurism" means an act done secretly, without knowledge, without consent or in violation of the procedure established by law and includes—

(i) watching, listening or capturing a person engaging in a private act or a private conversation; or

(ii) accessing, monitoring, listening, reading, sensing, processing, altering or disseminating one's sensitive personal data; or

(iii) accessing, watching, listening, reading, sensing or disseminating one's stored or live information of a private act or private conversation as the case may be; or

(iv) repeatedly or constantly monitoring the location and movements of a person or accessing location data;

in circumstances where a reasonable person would usually have the reasonable expectation of privacy; where such breach of privacy is committed intentionally or knowing that it is likely to cause breach of privacy of a person with the motive of sexual arousal, sexual gratification, entertainment, profit, intimidation, revenge, defame, degrade or abuse a person.

(v) secretly or without knowledge or consent or unlawfully installing a device or software, permitting the installation of a device or software; obtaining command over camera, microphone, location and storage of a computer, accessing information from any device or software; to watch, listen, recapture, read, sense or disseminate sensitive personal data, data of location and movements or captured information of a person engaging in a private act or a private conversation; or

(vi) any dissemination with malafide intention of—

(a) information of a private act or a private conversation in circumstances where a person consensually captures such information or consents to such capture or knowing that it is being captured or having reason to believe it is likely to be captured or saved, but does not expressly consent to its dissemination to a third person, or

(b) a recording of a sexual offence and such captured information is used against the rights and interests of the victim, or

(c) any sexually explicit, obscene or similar private information accidently captured, recorded or stored by CCTV cameras and other devices installed for security purposes in public places, or

(d) captured information of any incident occurring in emergency or unavoidable circumstances such as childbirth in public places and which discloses the facial identity and private part of the body of the woman, or

(e) captured information disclosing the private part of the body of a person and disclosing facial identity in case of a woman, urinating or doing any similar private act in a public place which is illegal under any other law for the time being in force; for the purposes other than prosecuting the illegal act, or

(f) call recordings, audio files, video files, text chat or screenshots of a private conversation; or

(g) sensitive personal data including data related to location and movements in circumstances where a person consensually provides such data to any person or intermediary or consents to its access or knowing that it is being accessed or having reason to believe it is likely to be accessed or saved, but does not expressly consent to its dissemination to a third person or to use or process it for other purpose than consented; or

(vii) acts committed by Revenge Porn, Revenge Call Recording, Revenge Text Chat, Upskirt, Down-blouse, Downstream distribution, Sexting, Eavesdropping, Cyber Stalking, Stalking Paparazzi, Doxing and Voyeuristic deepfake.

Explanation - For the purposes of this clause,—

(a) "private act" includes an act carried out in the circumstances where the person is alone or with any other person or remotely connected with any other person through technology and where the person is naked, or person's genitals, posterior or female breasts are exposed or covered only in underwear; or the person is using a lavatory, or disrobing, or doing a sexual or an intimate act that is not of a kind ordinarily done in public; which the person has reason to believe as private act and it is not likely to be disclosed to the third person or public; regardless of whether the person is in a public or private place; where visibility or disclosure of such act or any part of it to the third person may cause legal injury to that person regardless of the damage.

(b) "private conversation" includes a conversation carried out in the circumstances where the interlocutor is alone or with any other person or remotely connected with any other person through technology or by correspondence; making mutually consenting any sexual or intimate conversation arising out of the fiduciary relationship or mutual trust; or conveying personal, medical or financial secret, login credential or password, official secrets out of the scope of the Right to Information Act, 2005; or having audible, noticeable or recordable self-talk or voice of similar nature; or communications under section 128, 130, 132 or 134 of the Bharatiya Sakshya Adhiniyam, 2023; or communication under in camera judicial proceedings, whether such conversation or self-talk is oral, written or in electronic format; that such conversation or self-talk is not of a kind ordinarily done in public; which the interlocutor has reason to believe as a private conversation or self-talk and it is not likely to be disclosed to the third person or public; regardless of whether the interlocutor is in a public or private place, where disclosure of such conversation or self-talk or any part of it to the third person may cause legal injury to the interlocutor regardless of the damage.

22 of 2005.

47 of 2023.

(c) "sensitive personal data" means any data about a person who is identifiable by or in relation to such data; either in physical form or in electronic format and includes login credential, password, contact list, finger-impressions, palm-print impressions, foot-print impressions, iris and retina scan, physical, biological samples and their analysis, behavioural attributes including signatures, digital signature, racial or ethnic origin, political opinions, religious or philosophical beliefs, genetic data, data about health and sex life, sexual orientation; data including commercial confidence, trade secrets, intellectual property, or official secrets; and any other category as may be prescribed; but

does not include data of a private act or private conversation mentioned in this definition; data which the person has reason to believe as confidential data and it is not likely to be disclosed to the third person or public; regardless of whether the such data is stored in personal custody, custody of a company, at public domain or with intermediaries; where disclosure without express consent of such data or any part of it to the third person may cause legal injury to that person regardless of the damage.

(d) "in circumstances where a reasonable person would usually have the reasonable expectation of privacy" means—

(i) the victim could be naked, disrobe in privacy or engage in a private act without the same being observed or captured; or

(ii) any part of the victim's private area or the private act would not be visible to the public; regardless of whether the victim is in a public or private place; or

(iii) in case where the victim is a child or an adolescent who knows using a lavatory and changing room and reasonably expects not to be seen by others; or

(iv) mutually consenting any sexual or intimate conversation; or conveying personal, official, medical or financial secret, login credential or password; or audible, noticeable or recordable self-talk of similar nature; whether oral, written or in electronic format, would not be shared or disclosed to any third person, or

(v) not being observed or heard live in-person; or his sensitive personal data or information of a private act or a private conversation is not being accessed, captured, watched, heard, read, sensed or disseminated; or sensitive personal data is not being used or processed for the other purpose than consented; as the case may be; either by the perpetrator or by any other person at the behest of the perpetrator, or

(vi) not being targeted and the location, travel history and movements of a person would not be surveilled by any person or software company;

(e) "Down-blouse" means secretly watching or capturing a person's cleavage, bra and breasts under a person's clothing, regardless of whether the person is in a private or public place;

(f) "Downstream distribution" means the reposting of earlier posted voyeuristic material on the internet by third parties;

(g) "Doxxing" or "Doxing" means publicly revealing previously private data about a person through electronic means without the consent of that person;

(h) "private place" means a place where one may reasonably expect to be safe from uninvited intrusion or surveillance but does not include a place to which the public has lawful access;

(i) "Revenge porn" means voyeuristic material of a private act captured consensually but disseminated without the consent of the person or persons visible in the material, with the intention of revenge;

(j) "Sexting" means sexual conversation in the form of text including attachments of an image, audio or video;

(k) "Stalking Paparazzi" means overzealous and aggressive persons who capture or publish audios, videos or images of celebrities despite a clear indication of refusal;

(l) "Up-skirt" means secretly watching or capturing a person's private parts, whether covered or uncovered, under a person's skirt or other similar clothing, regardless of whether the person is in a private or public place;

(39) "Voyeuristic material" means any information arising out of the offence of voyeurism as defined under sub-section *(38)*;

(40) words and expressions used but not defined in this Act but defined in the Bharatiya Nyaya Sanhita, 2023, the Information Technology Act, 2000, the Digital Personal Data Protection Act, 2023 or the Indian Telegraph Act, 1885 shall have the same meaning as is respectively assigned to them in those Acts.

45 of 2023.
21 of 2000.
22 of 2023.
13 of 1885.

CHAPTER II

RIGHTS OF PERSONS AND VICTIMS

Right to privacy.

3. Subject to the provisions of this Act, every person shall have the right to privacy:

Provided that right to privacy shall be subject to reasonable restrictions imposed by State in the interest of public order, security, or other specified grounds as per the procedure established by law.

Explanation. — For the purposes of this section, "State" shall include the Central Government or the Government of any State or Union territory and any local authority or other body created by or under the authority of any such Government, and any agency of the appropriate Government, including law enforcement agencies and regulatory authorities.

Right to information

4. *(1)* Subject to the provisions of this Act, every person shall have the right to access information with respect to,—

(i) the privacy measures and privacy policy adopted by any establishment or sensitive service provider;

(ii) the name, designation, rights and duties of such designated public servant or an employee of the establishment or the sensitive service provider under this Act, whose duties and responsibilities are related to the implementation of this Act.

(2) The procedure for obtaining the information referred to in sub-section *(1)* shall be such, as may be prescribed.

Prevention of voyeurism.

5. No person shall be subjected to voyeurism, and violation of this provision shall be an offence punishable under this Act.

Rights of victims.

6. *(1)* Every victim under this Act shall have the right to,—

(a) be informed about the rights of the victim;

(b) seek redressal against offences committed under this Act;

(c) seek legal and medical aid;

(d) apply for damages and compensation;

(e) attend criminal justice proceedings arising out of the offence committed against him ;

(f) be heard and participate in such criminal justice proceedings;

(*g)* be informed, with reasonable, accurate, and timely notice, of any investigation, Court proceeding including any bail proceeding, legal rights and remedies, and available services and the Special Public Prosecutor:

Provided that the appropriate Government shall inform the victim about any proceedings under this Act;

(h) protection from intimidation, harassment, coercion, inducement, violence or threats of violence;

(i) restitution by the offender;

(j) prompt return of personal property seized as evidence;

(k) a speedy trial;

(l) be treated in a fair, just, dignified, respectable and equitable manner and with due regard to any special need that arises because of the victim's age or gender or educational disadvantage or poverty;

*(m)*take down voyeuristic material related to them from an intermediary;

(n) not be discriminated against on the grounds of being a victim of voyeurism;

(o) take assistance from NGOs, social workers or advocates;

(p) any other relief under the provisions of this Act; and

(q) enforcement of the rights mentioned under this Act.

Right to file application and receive acknowledgement.

7. *(1)* Every person shall have the right to file a letter, complaint, application or appeal to the Bureaus, establishments or offices of the sensitive service providers established under this Act, as the case may be, and shall be entitled to receive an acknowledgement thereof in the form and manner, as may be prescribed.

(2) In the event of refusal to accept or acknowledge such letter, complaint, application, or appeal under sub-section *(1)*, the aggrieved person shall be entitled to such remedies as may be prescribed, and the person in default of the duty stipulated under sub-section *(1)* shall be liable to such disciplinary proceedings and penalties as may be applicable to an Officer of the Central Civil Service of equivalent grade.

CHAPTER III

ANTI-VOYEURISM BUREAU OF INDIA

Constitution of National Bureau.

8. ***(1)* The Central Government shall, by notification in the official gazette, establish a body to be called as the Anti-Voyeurism Bureau of India (hereinafter referred to as the National Bureau), to exercise the powers conferred upon and duties and function assigned to it under this Act.**

(2) The National Bureau shall consist of —

(a) the Chief Anti-Voyeurism Commissioner; and

(b) four members, out of which two shall be experts in the technical field; one shall be an eminent advocate; and one shall be a representative of an accredited NGO.

Provided that out of the five members of the National Bureau, at least two shall be women, and efforts shall be made to include to the extent possible persons belonging to the third gender.

(3) The Chief Anti-Voyeurism Commissioner and members of the National Bureau shall be appointed from amongst persons—

(a) who have been or are in an All-India Service or in any civil service of the Union or in a civil post under the Union or persons of eminence in public life with vast knowledge and experience in law, science and technology, cyber security, investigation, social service, management, journalism, mass media or administration and governance; or

(b) who have held office or are holding office in a corporation established by or under any Central Act or a Government company owned or controlled by the Central Government and persons who have expertise and experience in law, science and technology, cyber security, investigation, social service, management, journalism, mass media or administration and governance.

(4) The Chief Anti-Voyeurism Commissioner or a Member of the National Bureau shall not be a Member of Parliament or a Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or be connected with any political party or carrying on any business or pursuing any profession.

(5) The National Bureau 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 acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

***(6)* The headquarters of the National Bureau shall be at Delhi, and the National Bureau may, with the previous approval of the Central Government, establish divisional or branch offices at other places in India, as may be deemed necessary.**

(7) The Central Government shall appoint a Registrar to the National Bureau on such terms and conditions as it deems fit to exercise such powers and discharge such duties as the National Bureau may by regulations specify in this behalf.

(8) The general superintendence, direction and management of the affairs of the National Bureau shall vest in the Chief Anti-Voyeurism Commissioner who shall be assisted by the members; shall exercise all such powers and do all such acts and things which may be exercised or done by the National Bureau autonomously without being subjected to directions by any other authority under this Act.

Appointment, term of office, resignation and removal of members of the National Bureau.

9. *(1)* The Chief Anti-Voyeurism Commissioner and the other members of the National Bureau shall be appointed by the President of India, by warrant under his hand and seal, on the recommendations of a Committee consisting of—

(i) The Prime Minister of India who shall be the Chairperson of the Committee;

(ii) The Chief Justice of India, *ex office* Member; and

(iii) The Leader of Opposition House of the People, *ex office* Member.

Explanation.— For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognized as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of Opposition.

(2) While making any recommendation under sub-section *(1)*, the Committee shall take into consideration the views of the outgoing members of the National Bureau.

(3) The Central Government shall provide requisite induction training to the persons appointed to the National Bureau before their joining office, in such form and manner as may be prescribed.

(4) The term of office of the Chief Anti-Voyeurism Commissioner and the members of the National Bureau shall be five years from the date of their appointment or until they attain the age of sixty-five years, whichever is earlier.

(5) The outgoing Chief Anti-Voyeurism Commissioner shall be eligible for further selection as the Chief Anti-Voyeurism Commissioner, provided that no person shall hold the office for more than two terms.

(6) No person employed in the service of the Government shall be eligible to hold the office of the Chief Anti-Voyeurism Commissioner under this Act, unless, upon selection, such person voluntary retires from government service prior to assuming office.

(7) Any member of the National Bureau may, at any time, relinquish his office by giving notice of not less than three months by writing under his hand to the President and on such resignation being accepted, he shall be deemed to have vacated his office.

(8) The President may remove from office any member of the National Bureau, if the member—

(i) is adjudged an insolvent; or

(ii) has indulged in any misbehaviour; or

(iii) engages during his term of office in any paid employment outside the duties of his office; or

(iv) gets convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude; or

(v) becomes of unsound mind and stands so declared by a competent court; or

(vi) refuses to act or becomes incapable of acting; or

(vii) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(viii) in the opinion of the President has so abused the position of Chief Anti-Voyeurism Commissioner or Member as to render that person's continuance in office detrimental to the public interest; or

(ix) in the opinion of the President is unfit to continue in office by reason of infirmity of mind or body:

Provided that no member shall be removed from his office unless he has been given a reasonable opportunity of being heard in the matter.

(9) A vacancy caused of the office of the Chief Anti-Voyeurism Commissioner or any other member shall be filled up within a period of three months from the date on which such vacancy occurs:

Provided that till such time the vacancy of the Chief Anti- Voyeurism Commissioner is filled up, the senior-most member shall be the officer-in-charge of the National Bureau.

Salaries and allowances of members of the National Bureau.

10. ***(1)*** **The salaries and allowances payable to—**

(a) **The Chief Anti-Voyeurism Commissioner shall be the same as that of the Chief Election Commissioner;**

(b) **A member of the National Bureau shall be the same as that of an Election Commissioner;**

Provided that if the Chief Anti-Voyeurism Commissioner or a member, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Chief Anti-Voyeurism Commissioner or a member shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Chief Anti-Voyeurism Commissioner or a member if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Anti-Voyeurism Commissioner or a member shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chief Anti-Voyeurism Commissioner and the members shall not be varied to their disadvantage after their appointment.

(2) **The Central Government shall provide the Chief Anti-Voyeurism Commissioner and the members with such number of officers and employees as may be necessary for the efficient performance of their functions under this Act.**

(3) **The methods of recruitment, the qualifications and experience, the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.**

Powers, duties and functions of the National Bureau.

11. *(1)* Subject to the provisions of this Act, the following shall be the duties and functions to be performed and the powers to be exercised by the National Bureau:

(a) advising and giving directions to the Central Government on prevention, prohibition and redressal of voyeurism and rehabilitation of the victims;

(b) supervising the functioning of the State and District Bureaus;

(c) laying down the standards to be maintained by the State and District Bureaus;

(d) laying down standards for the films, literature, drama, art, streaming media and other digital content which contain dramatic scenes related to or depicting voyeurism;

(e) prescribing fees for licences and their renewal;

(f) prescribing the format of application of licences and their renewal, the fees and prescribing the format of application of registration of sensitive service providers and the fees;

(g) preparing and publishing, on the recommendation of the State Bureaus, a national blacklist of sensitive service providers and a list of establishments whose licences have been suspended;

(h) recognizing an NGO as an accredited NGO authorized to set standards and conduct voluntary certification for establishments and sensitive service providers, on application by such NGO;

(i) trying appeals from the orders passed by the State Bureaus in matters related to blacklisting or licences;

(j) banning any websites or films or digital content which contains any voyeuristic material and taking appropriate steps to eliminate the material from the internet permanently;

(k) prescribing the qualifications of the District Superintendent, Deputy Superintendents, Inspectors and other staff at the District Bureau on the recommendation of the State Bureau;

(l) providing a budget for the administration and functioning of the National, State and District Bureaus;

(m) conducting scientific, technical, legal and investigation training for officials of the State and District Bureaus;

(n) providing statistics about the number of reported and convicted cases of voyeurism to the National Crime Records Bureau (NCRB);

(o) encouraging technical, legal and medical research to prevent and redress voyeurism and creating a Subordinate Committee for the purposes of such research;

(p) reviewing and coordinating the activities of all the departments and organizations of the Government and other NGOs that are dealing with matters relating to voyeurism; and

(q) recommending to the State Bureau to conduct inquiry, determine losses and grant compensations to the victims of voyeurism under section 58 of this Act.

(2) Subject to the provisions of this Act, the National Bureau shall have the power of reference and revision.

CHAPTER IV

ANTI-VOYEURISM BUREAUS OF THE STATES

Constitution of State Bureau.

12. ***(1)*** **Every State Government shall, by notification in the official gazette, establish a body to be called the Anti-Voyeurism Bureau of the State, (hereinafter referred to as the State Bureau) in each State to exercise the powers conferred upon and duties and functions assigned to it under this Act.**

(2) **The Bureau shall consist of the following, namely**—

(a) **The Chief Anti-Voyeurism Commissioner of the State; and**

(b) **Four members, out of which two shall be experts in the technical field; one shall be an eminent advocate; and one shall be a representative of an accredited NGO.**

Provided that out of the five members of the State Bureau, at least two shall be women, and efforts shall be made to include to the extent possible persons belonging to the third gender.

(3) The Chief Anti-Voyeurism Commissioner of the State and members of the State Bureau shall be appointed from amongst persons—

(a) who have been or are in an All-India Service or in any civil service of the Union or State in a civil post under the Union or State or persons of eminence in public life with vast knowledge and experience in law, science and technology, cyber security, investigation, social service, management, journalism, mass media or administration and governance; or

(b) who have held office or are holding office in a corporation established by or under any Central or State Act or a Government company owned or controlled by the Central or State Government and persons who have expertise and experience in law, science and technology, cyber security, investigation, social service, management, journalism, mass media or administration and governance.

(4) The Chief Anti-Voyeurism Commissioner of the State or a Member of the State Bureau shall not be a Member of Parliament or a Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(5) The State Bureau 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 acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

***(6)* The headquarters of the State Bureau shall be at such concerned place in the State as the State Government may, by notification in the Official Gazette, specify and the State Bureau may, with the previous approval of the State Government, establish divisional or branch offices at other places in the State, as may be deemed necessary.**

(7) The State Government shall appoint a Registrar to the State Bureau on such terms and conditions, as it deems fit, to exercise such powers and discharge such duties as the State Bureau may be regulations specify in this behalf.

(8) The general superintendence, direction and management of the affairs of the State Bureau shall vest in the Chief Anti-Voyeurism Commissioner of the State who shall be assisted by the members and shall exercise all such powers and do all such acts and things which may be exercised or done by the State Bureau as prescribed under this Act.

Appointment, term of office, resignation and the removal of members of the State Bureau.

13. *(1)* The Chief Anti-Voyeurism Commissioner of the State and the other members of the State Bureau shall be appointed by the Governor of the concerned State by warrant under his hand and seal on recommendations of a Committee consisting of—

(i) The Chief Minister of the State, who shall be the Chairperson of the Committee;

(ii) The Chief Justice of the High Court of the State, *ex officio* Member; and

(iii) The Leader of Opposition in the Legislative Assembly of the State, *ex officio* Member.

Explanation.— For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the Legislative Assembly of the State has not been recognized as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly of the State shall be deemed to be the Leader of Opposition.

(2) While making any recommendation under sub-section *(1)*, the Committee shall take into consideration the views of the outgoing members of the State Bureau.

(3) The State Government provide requisite induction training to the persons appointed to the State Bureau before joining office, in such form and manner, as may be prescribed.

(4) The term of office of the Chief Anti-Voyeurism Commissioner of the State and the members of the State Bureau shall be five years from the date of their appointment:

Provided that the outgoing Chief Anti-Voyeurism Commissioner shall be eligible for further selection as the Chief Anti-Voyeurism Commissioner, provided that no person shall hold the office for more than two terms.

(5) Any member of the State Bureau, at any time, may relinquish his office by giving, a notice of three months by writing under his hand and seal in writing to the Governor, and on such resignation being accepted, he shall be deemed to have vacated his office.

(6) The Governor may remove from office any member of the State Bureau if the member—

(i) is adjudged an insolvent; or

(ii) has indulged in any misbehaviour; or

(iii) engages during his term of office in any paid employment outside the duties of his office; or

(iv) gets convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or

(v) becomes of unsound mind and stands so declared by a competent court; or

(vi) refuses to act or becomes incapable of acting; or

(vii) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(viii) in the opinion of the Governor has so abused the position of Chief Anti-Voyeurism Commissioner of the State or Member as to render that person's continuance in office detrimental to public interest; or

(ix) in the opinion of the Governor is unfit to continue in office by reason of infirmity of mind or body:

Provided that no member shall be removed from his office unless he has been given a reasonable opportunity of being heard in the matter.

(7) A vacancy caused to the office of the Chief Anti-Voyeurism Commissioner of the State or any other member shall be filled up within a period of three months from the date on which such vacancy occurs:

Provided that till such time the vacancy of the Chief Anti-Voyeurism Commissioner of the State is filled up, the senior-most member will be the officer-in-charge of the State Bureau.

Salaries and allowances of members of State Bureau.

14. ***(1)*** **The salaries and allowances payable to—**

(a) **The Chief Anti-Voyeurism Commissioner of the State shall be the same as that of the Election Commissioner;**

(b) **A Member of the State Bureau shall be the same as that of the Chief Secretary to the State Government:**

Provided that if the Chief Anti-Voyeurism Commissioner of the State or a member, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Chief Anti-Voyeurism Commissioner of the State or a member shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Chief Anti-Voyeurism Commissioner of the State or a member if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Anti-Voyeurism Commissioner of the State or a member shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chief Anti-Voyeurism Commissioner of the State and the members of the State Bureau shall not be varied to their disadvantage after their appointment.

(2) **The State Government shall provide the Chief Anti-Voyeurism Commissioner of the State and the members with such number of officers and employees as may be necessary for the efficient performance of their functions under this Act,**

(3) **The methods of recruitment, qualifications and experience, the salaries and allowances payable to and other terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.**

Powers, duties and functions of State Bureau.

15. *(1)* Subject to the provisions of this Act, the following shall be the duties and functions to be performed and the powers to be exercised by the State Bureaus:

(a) advising and giving directions to the State Government on prevention, prohibition and redressal of voyeurism and rehabilitation of the victims;

(b) supervising the functioning of the District Bureaus;

(c) translating the application and renewal forms for licences and the licence formats prescribed by the National Bureau into the regional and local languages of the State;

(d) passing orders to black-list sensitive service providers recommended by the District Bureaus after conducting quasi-judicial proceedings and giving the sensitive service provider a reasonable opportunity of being heard;

(e) recommending to the National Bureau for sensitive service providers to be added to the national blacklist along with a detailed report containing reasons for the same;

(f) taking appropriate steps against any websites or films or digital content which contain any voyeuristic material to eliminate the material from the internet permanently;

(g) taking *suo moto* cognizance of the offences of voyeurism;

(h) taking cognizance of the cases of violation of the Act and other laws relating to voyeurism on receipt of complaint in this regard from any person, in such form and manner, as may be prescribed;

(i) directing the District Bureaus to conduct the inquiry or investigation, file charge sheet to the Special Court or the inquiry report to State Bureau, as the case may be, provide counselling to the victims, in cases of voyeurism;

(j) conducting random verification of all establishments where voyeurism is likely to take place;

(k) providing scientific, technical, legal and investigation training for officials of the District Bureaus;

(l) directing the District Bureau to issue or revoke licences of the establishments which have appealed to the State Bureau in cases where the State Bureau deems fit;

(m) publishing the list of applications and appeals pending before it on a notice board displayed at a conspicuous place on its office premises and on its official website, in such form and manner, as may be prescribed;

(n) making recommendations to the National Bureau regarding the qualifications of the District Superintendent, Deputy Superintendents, Inspectors and other staff of the District Bureau;

(o) publishing all information regarding establishments that have been granted or rejected licences, do not have a licence, have pending licence applications and blacklisted sensitive service providers on the official website of the State Bureau periodically;

(p) making recommendations to the National Bureau to direct the appropriate Government for the censoring of films, literature, drama, art, streaming media and other digital content which encourages or glorifies voyeurism;

(q) taking any other legal action as necessary for the prevention, prohibition and redressal of any offence of voyeurism or related incidents.

(2) Subject to the provisions of this Act, the State Bureau shall have the power of reference and revision.

CHAPTER V

ANTI-VOYEURISM BUREAUS OF THE DISTRICTS

Constitution of District Bureau.

16. ***(1)*** **Each State Government shall, by notification, in the official Gazette, constitute a body to be called as the Anti-Voyeurism Bureau of District, (hereinafter referred to as the District Bureau), in each District of the State, to exercise the powers conferred upon and duties and functions assigned to it under this Act.**

(2) **The Bureau shall consist of the following, namely**—

***(a)* the District Superintendent of the District Bureau;**

***(b)* two or more Deputy Superintendents of the District Bureau;**

***(c)* two or more Inspectors of the District Bureau;**

***(d)* experts in the technical, legal, medical and other fields, and any such staff as may be required, to carry out the functions of the District Bureau:**

Provided that half of the total staff of the District Bureau shall be women and efforts shall be made to include to the extent possible persons belonging to the third gender.

(3) There shall be a seal of every District Bureau 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 acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

***(4)* The headquarters of the District Bureau shall be at such a place in the State as the State Government may, by notification in the Official Gazette, specify and the District Bureau may, with the previous approval of the State Government, establish offices at other places in the district.**

***(5)* The State Government may establish one or more divisional or branch offices of the District Bureau, as may be deemed necessary, at any such places where it deems fit.**

(6) The general superintendence, direction and management of the affairs of the District Bureau shall vest in the District Superintendent of the District Bureau who shall be assisted by the Deputy Superintendents, the inspectors and the staff, and may exercise all such powers and do all such acts and things which may be exercised or done by the District Bureau as prescribed under this Act.

Qualification for appointment of officers and other employees of District Bureau.

17. *(1)* The District Superintendent, Deputy Superintendents, Inspectors and the staff of the District Bureau shall be persons who are experts in the fields of science, cyber security, information technology, computer or electronic engineering, law, investigation and administration.

***(2)* In addition to the above staff, the District Bureau shall have at all times in its staff at least one person qualified to be an architect, one person qualified to be a software or computer engineer, one person qualified to be an electrical or electronic engineer, and one person qualified to be an advocate.**

***(3)* The officials and employees of the District Bureau shall be appointed by the State Government on the recommendation of the State Bureau.**

***(4)* The State Government shall, by notification in the official Gazette, make rules to provide for the qualifications and experience, method of recruitment, procedure for appointment, expenditure, term of office, salaries and allowances, resignation and removal from office, promotions, and other terms and conditions of the employees of the District Bureau.**

(5) The State Government shall provide requisite induction training to the persons appointed to the District Bureau before their joining office, in such form and manner, as may be prescribed.

(6) A vacancy caused to the office of the District Superintendent, Deputy Superintendents, Inspectors and the staff of the District Bureau shall be filed

up within a period of three months from the date on which such vacancy occurs.

Powers, duties and functions of District Bureau.

18. *(1)* Subject to the provisions of this Act, it shall be the duty of the District Bureau, as the case may be, to receive or inquire into a complaint from any person, in such form and manner, as may be prescribed.

(2) Subject to the provisions of this Act, the following shall be the duties and functions to be performed and powers to be exercised by the District Bureaus:

(a) taking all necessary measures to prevent the offence of voyeurism in places under its jurisdiction;

(b) taking *suo-moto* cognizance of the offences of voyeurism;

(c) taking cognizance of the cases of violation of the Act and other laws relating to voyeurism on a complaint by any person;

(d) conducting investigation in cases of voyeurism where the Police have forwarded the case to the District Bureau;

(e) submitting a detailed report of the investigation to the Police in such cases where charge sheet is to be forwarded by the police and providing all such assistance as requested by the Police;

(f) forwarding charge sheet to the Special Court or inquiry report to the State Bureau, as the case may be;

(g) conducting regular and random verification of all establishments where voyeurism is likely to take place;

(h) entering and inspecting the premises of any establishment during reasonable working hours:

Provided that such inspection shall be recorded in a register of the office of the District Bureau and in a register maintained by the establishment;

(i) entering and inspecting any dwelling house subject to the provisions under the Bharatiya Nagarik Suraksha Sanhita, 2023; 46 of 2023.

(j) conducting surprise and regular inspections of places other than establishments where security cameras or CCTVs have been installed in public places;

(k) using the powers of search, seizure and arrest as prescribed under the Bharatiya Nagarik Suraksha Sanhita, 2023; 46 of 2023.

(l) collecting fees relating to licences, their renewal and penalties for non-compliance of other provisions under this Act;

(m) issuing licences to establishments:

Provided that the District Superintendent of the District Bureau shall be the licensing authority for this purpose under the Act;

(n) recommending to the State Bureau, sensitive service providers to be added to the blacklist along with a detailed report containing reasons for the same;

(o) providing medical, legal and technical aid to the victims of voyeurism;

(p) forwarding proposal to the State Bureau to conduct inquiry, determine losses and grant compensations to the victims of voyeurism under section 58 of this Act;

(q) determining whether the voyeuristic material is genuine or deepfake;

(r) providing rehabilitation and counselling to the offenders of voyeurism; and

(s) taking any other legal action as necessary for the prevention, prohibition and redressal of any offence of voyeurism or related incidents.

CHAPTER VI

COPYRIGHT AND TAKEDOWN MECHANISM

14 of 1957.

Copyright over voyeuristic material.

19. Notwithstanding anything contained in the Copyright Act, 1957, the accused or convicted person shall not have any copyright over the voyeuristic material, wholly or in part, arising out of the offence committed by them.

21 of 2000.

Takedown notice and restoration procedure.

20. Notwithstanding anything contained in section 79 of the Information Technology Act, 2000 and the rules made under that Act,—

(1) Every intermediary shall establish within one hundred and twenty days from the date of enactment of this Act, a mechanism for the takedown of voyeuristic material uploaded by any of its users or by itself.

(2) Any victim who wishes to remove their voyeuristic material from any online platform may send a takedown notice to that intermediary in such format as may be prescribed.

(3) The intermediary shall take down the voyeuristic material within a maximum period of thirty-six hours from the receipt of the notice and shall notify the same to the user who uploaded it, if applicable:

Provided that the intermediary may not reject the takedown notice by reason of non-compliance of the prescribed format of notice or lack of other compliance.

(4) Any user aggrieved by the takedown of content, may file a counter-notice in the prescribed format to the intermediary within a period of sixty days from the date of receipt of the notification.

(5) The intermediary on receipt of the counter-notice may, if it deems fit that such material was not uploaded in violation of any law, restore the material on the website within a period of fifteen days from such receipt:

Provided that the material shall not be restored in cases where the victim initiates legal action, or the Special Court or Bureau passes an order against it.

(6) The intermediary, after receipt of takedown notice, shall securely preserve such voyeuristic material and associated records for at least ninety days for investigation purposes, ensuring that there is no dissemination, after which it shall be permanently destroyed by the intermediary.

(7) The takedown notice shall include the following information:—

(a) Identification of the voyeuristic material that is claimed to be illegally uploaded or to be the subject of such activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to enable the intermediary to locate the material such as the website link,

(b) Information reasonably sufficient to enable the intermediary to contact the victim, such as an address, telephone number, and, if

available, an electronic mail address at which the victim may be contacted:

Provided that the victim shall have the right to refrain from disclosing his name, address, telephone number or related personal information and may alternatively provide the details of a representative or an advocate,

(c) A statement that the victim has a good faith belief that use of the material in the manner complained of is illegally uploaded, and a statement that the information in the notice is accurate and under the offence of perjury, the deponent could be held liable.

(8) The counter-notice shall include the following information:—

(a) A physical or electronic signature of the user,

(b) Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled,

(c) A statement under the offence of perjury that the user has a good faith belief that the material was removed or disabled illegally, or as a result of mistake or misidentification of the material to be removed or disabled,

(d) The name, telephone number, postal and email address of the user and if the user's address is outside of India, the name, address and telephone number of a representative residing in India.

(9) The Bureaus established under this Act shall, after a preliminary investigation, have the power to order the intermediary to takedown any voyeuristic material, and the same shall be complied with by the intermediary within a period of twenty-four hours from the receipt of such order:

Provided that in such cases, no voyeuristic material shall be restored under sub-section *(5)* of this section.

Prohibition on third-party intermediaries for claiming or working as a takedown agency.

21. *(1)* No third-party intermediary shall claim or advertise to have a technical tool for taking down voyeuristic material from any other intermediary or digital platform and shall not thereby seek, call for, collect, store or process any voyeuristic materials themselves.

(2) No person shall, by himself or on behalf of a third-party intermediary; promulgate, endorse or advertise the claim prohibited in sub-section *(1)* and shall not thereby induce people to transfer the voyeuristic material to himself or the third-party intermediary.

CHAPTER VII

VOYEURISM-FREE STANDARDS AND STANDARD MARK

Standards to be specified.

22. *(1)* Without prejudice to the powers of the Bureaus under this Act, the Bureau of Indian Standards established under the Bureau of Indian Standards Act, 2016 shall, in consultation with the National Bureau and accredited NGOs under this Act, set mandatory standards for the protection of privacy, protection against voyeurism and other purposes under this Act. 11 of 2016.

(2) The Bureau of Indian Standards shall, at regular intervals, update the mandatory standards under sub-section *(1)* to meet contemporary social needs.

(3) Notwithstanding anything contained in the Bureau of Indian Standards Act, 2016 and the rules, regulations and standards thereunder, the mandatory standards set under sub-section *(1)* shall be a public document within the

meaning of sub-section *(1)* of section 74 of the Bharatiya Sakshya Adhiniyam, 2023 and same shall be made available to the public without charging any commercial fees.

47 of 2023.

Duty to conform to standards.

23. Every establishment and sensitive service provider under this Act shall conform to the mandatory standards set under section 22 of this Act.

'Voyeurism-Free' standard mark.

24. The Bureau of Indian Standards shall, in consultation with the National Bureau, the Trade Marks Registry established under the Trade Marks Act, 1999, accredited NGOs, and stakeholders, establish a Standard Mark which shall be of such design and contain such particulars as may be prescribed to represent conformity of the services of an establishment or sensitive service provider to the mandatory standards set under section 22, indicating that the particular services are Voyeurism-free.

47 of 1999.

Use of standard mark.

25. *(1)* No establishment or sensitive servicer provider other than an establishment bearing a valid licence under Chapter VIII or a sensitive service provider registered under Chapter IX of this Act, may make use of the Standard Mark in the premises of their business, on advertisements, brochures, billing receipts, websites, software, social media or by any other methods to represent the conformity of their services to the standards.

(2) The use of the Standard Mark shall be deemed to be evidence of the premises of an establishment or services of the sensitive service provider being in conformity with the mandatory standards applicable to them under this Act:

Provided that nothing in this sub-section shall prevent any officer of the Bureaus from examining any premises of an establishment, service of the sensitive service provider, entity or person if they have reason to believe that the standard mark is not genuine or has been used, affixed or applied fraudulently or if such an examination is necessary for the purpose of any other law for the time being in force.

Standards and voluntary certification by NGOs.

26. *(1)* Notwithstanding anything contained in this Chapter and for the larger public interest, an accredited NGOs is authorized to set their own standards for voluntary certification and certify establishments and sensitive service providers that voluntarily adopt those standards.

(2) Nothing shall prevent any accredited NGOs from certification work for the larger public interest on the grounds that their standards resemble those set under section 22 of this Act.

(3) Notwithstanding anything inconsistent contained in sub-section (*3)* of section 17 of the Bureau of Indian Standards Act, 2016, nothing shall prevent any accredited NGO from registering certification trademarks and other intellectual property for the larger public interest subject to obtaining a no-objection certificate from the National Bureau.

11 of 2016.

CHAPTER VIII

PROVISIONS FOR ESTABLISHMENTS

Licences for establishments.

27. No establishment specified in the First Schedule or its branch or department shall commence or carry on any business unless it holds in this behalf a licence issued in accordance with the provisions of this Act and the Rules made thereunder:

Provided that the establishments in operation prior to the enactment of this Act shall, within a period of one year from the date of enactment of this Act, apply for the licence and may continue their business unless the licence is rejected by the licencing authority.

Exemptions for obtaining licence.

28. Any establishment mentioned in the First Schedule may apply to the licencing authority for an exemption on the grounds that there is no scope for voyeurism to take place within their premises:

Provided that the licencing authority may grant such an exemption after an inspection of the establishment and on certain conditions as may be prescribed.

Licencing authority and forms of licences.

29. The licences under this Act shall be granted or renewed, by the licencing authority, in such forms and to be valid for such period as prescribed by the State Bureau, subject to such conditions as are specified in these rules and in the licence:

Provided that the licencing authority may empower in his behalf any officer or officers of the District Bureau to grant or renew any such licences.

Restrictions in granting licences.

30. No licence shall be granted to the establishments specified in the First Schedule unless they have been legally established, registered or possessed, and not prohibited under any other law for the time being in force.

Licencing authorities to furnish information to State Bureau.

31. The licencing authority shall provide information with respect to the licences granted, rejected and renewed, and pending applications of licences under this Act to the State Bureau at regular intervals in such form and manner, as may be prescribed by the State Bureau.

Enabling ease of access to licence services.

32. The employees of the District Bureau shall render reasonable assistance, free of cost, to persons applying for a licence or its renewal by assisting them in the application processes such as filling the form, attaching required documents, etc. and periodically organizing camps for easy access to their services at various locations in the district.

Application for licences.

33. *(1)* Every application for the grant of a licence under this Act, shall be—

(a) submitted in the form, contain such particulars and be accompanied by such fee, as may be prescribed by the State Bureau;

(b) presented by the applicant in person or sent through the medium of post or filed electronically or otherwise to the licencing authority, as far as possible, having jurisdiction in respect of the place where the establishment is situated.

(2) Every application submitted by a person for the grant of a licence shall be accompanied by the documents as prescribed by the State Bureau.

(3) The applicant shall not suppress any factual information or furnish false or wrong information in the application form.

Jurisdiction of licencing authority.

34. *(1)* The licencing authority shall issue licences to establishments situated within the local limits of the jurisdiction of the district.

(2) In cases where the property or premises of the establishment is movable, the licencing authority under whose jurisdiction the establishment has its registered office, or its head office or its branch office is situated, or from where it carries out its business under any other law for the time being in force, shall be the licencing authority having jurisdiction to issue a licence to such movable property or premises.

Inspection of establishments.

35. *(1)* On receipt of an application, a team of experts from the District Bureau appointed by the licencing authority shall conduct a thorough inspection of the applicant establishment, their premises, documents, the conformity of the establishment with the standards set under section 22 of this Act and collect any other information as deemed necessary; and after such inspection, the team of experts shall prepare a report on the same and submit it to the

licencing authority within fifteen working days from the date of receipt of application.

*(2)*The District Bureau shall carry out surprise inspection in the establishment at regular intervals.

(3) The inspection of an establishment shall be carried out during reasonable working hours and in the presence of a woman officer in cases where the establishment is run or managed by a woman.

Grant of licences and time limit for grant of licences.

36. *(1)* The licencing authority shall, after considering the application by the applicant establishment and the inspection report under sub-section *(1)* or section 48 and on being satisfied that the applicant has fulfilled the eligibility conditions, subject to the other provisions of this Chapter, grant a licence; or refuse to grant a licence by recording its reasons in writing for such refusal, and by passing a speaking order; within a period of thirty days from the receipt of such application.

(2) In case of grant of licence, the licencing authority shall provide the certificate of licence in the format specified in the Third schedule to the applicant.

(3) The establishment shall exhibit, on a visible area of the premises of the establishment, either the licence granted by the licencing authority under this section or any document informing the licencing authority about the deemed grant of licence under the first proviso to section 41.

(4) Any licence granted by the licencing authority to the particular premises of an establishment shall be valid only to the extent of those premises of the establishment.

(5) The licence format and the contents to be filled up in the licence shall be written in both the local language and English language.

Maintenance of records in electronic format and consolidation of licences.

37. *(1)* Every licencing authority, while granting or renewing a licence, shall enter the data of the record locally in an electronic format as specified from time to time by the State Bureau.

(2) Every licencing authority shall enter the relevant data of each such licensee in the Central system developed and upgraded at regular intervals by the National Bureau in consultation with the Central Government, which shall generate a Unique Identification Number (hereinafter referred to as "UIN") for each licensee which shall take effect from such date as may be prescribed by the National Bureau, and no licence shall be deemed valid without such UIN.

(3) The UIN so generated under sub- section *(2)* shall be unique for every licensee.

(4) The licencing authority shall provide through its public web portal, Application Programming Interface (API) for Unique Identification Number (UIN) and standard mark, to be voluntarily exhibited on the websites and software applications if any, of a licensee, on the request of a licensee.

Change, correction, addition, alteration and deletion of any information after grant of licence by licencing authority.

38. *(1)* Where there is a change, correction, addition, alteration or deletion in any kind of information, other than information about a change in address given to the licencing authority by the establishment, the establishment shall forthwith inform the same to the licencing authority by such application and in such form, as prescribed by the State Bureau from time to time, within thirty days from the date of such change, correction, addition, alteration or deletion.

Provided that any establishment that does not inform the licencing authority about any such change, correction, addition, alteration or deletion

shall be liable to such fine as may be prescribed by the State Bureau in accordance with such penalty as prescribed under section 103 of this Act.

(2) The licencing authority shall, on receiving such information and on being satisfied about its correctness, make the change in the register of establishments and shall amend the certificate of licence or issue a fresh certificate of licence, if necessary.

Provision relating to change in address of establishment.

39. *(1)* The licensee shall notify the licencing authority in the form prescribed by the State Bureau within thirty days from the date of change of address of the establishment that such establishment has changed their address, in such form and manner, as may be prescribed.

Provided that where the change of address has taken place in the area which is under the jurisdiction of the licencing authority which has issued the previous licence, the changes shall be incorporated into the same licence after inspection of the changed premises of the establishment and no cancellation of the previous licence shall be required.

(2) The licencing authority shall, on receiving the information and being satisfied about its correctness, remove such establishment from the register of establishments and cancel the licence.

Renewal of licence.

40. *(1)* Every licence shall, at its expiration and subject to the same conditions as to the grant thereof, be renewed by the licencing authority within a period of thirty days from the date of receipt of the application for renewal.

(2) An application for renewal of a licence shall be filed in the form specified by the State Bureau, at least sixty days prior but not more than ninety days prior to the expiry of the said licence with the licencing authority along with the documents specified by the State Bureau.

(3) The licencing authority shall consider an application for renewal of a licence, if the period between the date of its expiry and the date of application is not, in his opinion, unduly long with due regard to the circumstances of the case, and subject to payment of all renewal fees.

Provided that if the specified conditions are not met, the application shall be treated as that for grant of a fresh licence.

Deemed grant or renewal of licences.

41. If the licencing authority does not communicate its decision of whether to grant or refuse the licence or its renewal to the applicant within thirty working days from the receipt of application, or within thirty working days from the date of receipt of reply from the applicant in respect of any requisition made by the licencing authority, whichever is later, the licence shall be deemed to have been granted or renewed, as the case may be, on the date immediately following the date of expiry of the stipulated thirty working days and such licence shall be deemed to be legally valid for all purposes under this Act:

Provided that the applicant establishment whose application has been deemed granted or deemed renewed shall, before carrying on the business, inform the licencing authority, in the prescribed format, about the initiation or continuance of the business of the establishment by virtue of the deemed grant or renewal of licence, and the licencing authority shall record the information which shall become part of the official record.

Provided also that the business carried on, is strictly in conformity with the requirements of all the standards, rules and regulations for the time being in force framed under this Act, and any contravention shall invalidate the deemed grantor renewal of licence.

Fees for licences.

42. *(1) (a)* Every licence granted or renewed under this Act shall, save as herein otherwise expressly provided, be chargeable with a fee, if any, as prescribed

by the State Government on the recommendation of the State Bureau, after taking into consideration the following points, namely:—

(i) the area of the premises of the establishment in square metres;

(ii) the class of local self-Government under whose jurisdiction it is situated;

(iii) the type of business;

(iv) the ratings, rank, etc., if any; and

(v) any other considerations as may be prescribed.

(b) In any case where the fee is prescribed for a year, the fee for a fraction of a year shall be the same as for a whole year.

(2) Where a licensee submits an application for renewal of the licence after the expiry of the period for which the licence was granted, the licencing authority may, if it decides to renew the licence, at its discretion, levy—

(a) the full fee as for initial grant of the licence; and

(b) a late fee as prescribed by the State Bureau if it is satisfied that the delay is not justifiable or excusable, and not serious enough to warrant revocation of the licence or prosecution of the licensee.

(3) The State Bureau may, by the issuance of a general or special order and for reasons to be recorded in writing and subject to such conditions, if any, as it may specify in the order, grant exemption from, or reduction of, the fee payable in respect of any licence:

Provided that of every exemption from payment of the fee chargeable in respect of the grant or renewal of any licence shall be subject to the condition that if the application for renewal of such licence is not made within the prescribed period mentioned in sub-section (*2*) of section 40, the licencing authority may, unless the applicant satisfies the licencing authority that he had sufficient cause for not making the application within that period, levy renewal fee at the rate prescribed by the State Bureau.

(4) Any establishment—

*(a) w*herein a woman or a person belonging to the third gender or any person with disabilities or an orphan above eighteen years of age or a person belonging to an economically backward class is the sole proprietor, no such fees shall be levied for application and renewal of the licence under this Act, or

(b) that ensures a clean and hygienic toilet facility in their premises, especially for women and persons belonging to the third gender, may be granted an exemption or reduction in licence fees on the order of the State Bureau:

Provided that this sub-section shall not apply to establishments whose annual turnover exceeds the exemption limit prescribed by the State Bureau.

Fee payable for copies and duplicates.

43. Where a licence granted or renewed under this Act is lost or accidentally destroyed, the licencing authority shall grant a duplicate licence on payment of the fee as prescribed by the State Bureau.

Collection of fees.

44. All fees payable shall be paid in cash or by way of bank pay- order or demand draft or electronic banking transfer at the time of application.

Production of licence.

45. Any person who holds a licence granted or deemed granted or renewed under this Act shall forthwith produce such licence upon demand by any officer of

the District, State or National Bureau or any magistrate or any police officer of a rank not below that of an officer-in-charge of a police station.

Suspension, revocation and cancellation of licence.

46. *(1)* The licencing authority may, on receipt of any complaint or may *suo moto* initiate an inquiry and suspend or revoke any licence if the establishment which has been granted a licence under this Chapter or any person in connection with such establishment is found to indulge or participate in any activity punishable under this Act or commits any act contrary to the provisions mentioned under this Act, by passing a speaking order:

Provided that, at the time of the inquiry, a notice shall be issued to such establishment or person, and they shall be given a reasonable opportunity of being heard.

(2) If any establishment has been permanently closed for business, the licensee shall notify the same to the licencing authority within thirty days from the date of closing of the establishment, in such form and manner, as may be prescribed by the State Bureau.

(3) The licencing authority shall, on receiving the information and being satisfied about its correctness, remove such establishment from the register of establishments and cancel the licence:

Provided also that if the licencing authority does not receive the information, but is otherwise satisfied on inspection that the establishment on the registered address has been permanently closed and after giving the establishment a reasonable opportunity of being heard by issuing a notice, it may prepare a detailed report including statements or any other evidence to show that the said establishment has been permanently closed at the registered address and then remove the establishment from the register and cancel such certificate of licence.

Licence not to indicate legality of business.

47. *(1)*The licence provided by the licencing authority under this Act shall not indicate the legality or authenticity of the establishment or its business, nor shall it confer legality upon any illegal establishment, business or act.

*(2)*The licence under this Act shall not be a proof of the existence of any establishment, business or place of business.

*(3)*The licence under this Act shall be an independent licence without affecting the provisions of any other licences, permissions, or certifications necessary or mandatory under any other laws for the time being in force for the continuance of the establishment or its business.

Search report on request.

48. *(1)*Without prejudice to any other provision under this Act, any person authorized and intending to use any premises or a vehicle whether the licence provisions under this Act apply to them or not, may make a request in the prescribed form accompanied with the prescribed fees, to the District Bureau under whose jurisdiction such property is situated or vehicle is available for the inspection of such property in order to ascertain whether or not the premises of such property is presently free from voyeurism.

*(2)*The District Bureau shall, on receipt of the request, carry out the inspection of the specified premises and reply along with the search report to the applicant in writing within a period of two working days from the date of receipt of the request whether or not the premises is privacy protected, voyeurism-free and safe.

*(3)*In the case of private premises, the Bureau officials shall enter and inspect the premises or a vehicle only with the consent of the owner, possessor,

holder, occupier, his representative, driver or the person in whose possession or power such property is believed to be, as the case may be.

*(4)*In cases of grant or renewal of the licence of establishments under this Chapter, the search report of the Bureau under this section may be considered.

Duties of establishments.

49. *(1)* Save as otherwise provided in this Act, it shall be the duty of every establishment which has been mentioned in the First Schedule to:—

(a) take all necessary measures to prevent the offence of voyeurism in the premises of the establishment and ensure that all the premises of the establishment are voyeurism-free;

(b) adhere to the standards set by the Bureau of Indian Standards under section 22 of this Act;

(c) exhibit the certificate of licence granted by the licencing authority or the document under the proviso to section 41 relating to deemed grant of licence on a visible area of the premises of the establishment;

(d) maintain an inspection register to record the visits of the officers of the National or State Bureau or District Bureau or the Local Police;

(e) report, at the earliest, any offences under this Act committed within their premises, to the District Bureau or to the Local Police within whose local jurisdiction the establishment is situated;

(f) accept any letter, complaint and application filed by any person and grant an acknowledgment of the same in the form as may be prescribed;

(g) ensure that any cameras or CCTVs erected in the establishment for security purposes are present only in areas which are of public nature and subject to provisions and exceptions of section 147 of this Act.

Provided that a display board informing about the presence of the camera and microphone, if any, shall also be erected in its near proximity;

(h) ensure that any evidence of voyeurism in possession of the establishment shall not be disseminated to any employee or any other person, and deliver the possession of the same to the officers of the National, State or District Bureau; and

(i) ensure that the identity of the victim or any witnesses of voyeurism shall not be disclosed or disseminated.

*(2)*The National and State Bureau shall publish guidelines and duties to be followed under this Act by every establishment at regular intervals.

CHAPTER IX

PROVISIONS FOR SENSITIVE SERVICE PROVIDERS

Online registration of sensitive service providers.

50. *(1)* The Registrar of the National Bureau shall also work as the Registrar of the sensitive service providers and shall have the duty of verifying, registering and deregistering sensitive service providers in such manner as may be prescribed.

(2) A sensitive service provider, may register or deregister themselves on the Register of sensitive service providers by making an online application to the Registrar of the National Bureau in the prescribed form accompanied by the Aadhaar number of the individual or Udhyam registration number of the entity, as the case may be.

(3) The Registrar of the National Bureau shall grant registration to a sensitive service provider only after due online verification of the individual or entity

in the form, as specified in the Fourth Schedule, and in the manner, as may be prescribed.

(4) The unique registration number along with digital registration certificate for all sensitive service providers and digital identity card for sensitive service providers, under clause *(i)* and *(ii)* of sub-section *(33)* of section 2, shall be provided through a Government web portal and associated mobile application.

(5) The National Bureau shall provide through its public web portal, Application Programming Interface (API) for unique registration number and standard mark, to be voluntarily exhibited on the websites and software applications if any, of a registered sensitive service provider, on the request of a registered sensitive service provider.

Rules for verification of sensitive service providers.

51. *(1)* The Ministry of Labour of the Central and State Governments along with the Ministry of Home Affairs of the State Government may, in collaboration with the National and State Bureau, make rules for character verification by Police, framing privacy policy, etc. and frame a code of conduct and ethics for sensitive service providers categorized under clause *(i)* and *(ii)* of sub-section *(33)* of section 2.

(2) The Ministry of Information Technology of the Central and State Governments may, in collaboration with the National and State Bureau, make rules for verification by the cyber security experts, framing of privacy policy, etc. and frame a code of conduct and ethics for sensitive service providers categorized under clause *(iii)* and *(iv)* of sub-section *(33)* of section 2.

(3) The Central and State Governments may make rules for other prescribed categories of sensitive service providers, if any.

National database of sensitive service providers.

52. *(1)* The Registrar of the National Bureau shall maintain an electronic database of all the registered sensitive service providers segregated on the basis of the types and subtypes of services.

(2) The basic information such as the names, addresses, types of service and other relevant particulars of each sensitive service provider, as may be prescribed, shall be made available to the public on the official websites of the Bureaus after approval of the sensitive service provider.

(3) The database of sensitive service providers shall be regularly updated by the Registrar of the National Bureau.

Power of State Bureau to blacklist sensitive service providers.

53. The State Bureau may, on the recommendation of the District Bureau, blacklist any registered or unregistered sensitive service provider if any offence of voyeurism takes place in pursuance of such service by the service provider or any of their employees or representatives.

Procedure for blacklisting.

54. *(1)* The District Bureau shall send to the State Bureau, a proposal for blacklisting any sensitive service provider against whom charges have been framed or conviction has been ordered by the Special Court for an offence under this Act.

(2) The State Bureau shall, by a reasoned order, blacklist any sensitive service provider for a specific period as it may deem fit, subject to the provisions of this Act.

(3) No sensitive service provider shall be blacklisted under sub-section *(2)* without being afforded a reasonable opportunity of being heard.

(4) The State Bureau may order a sensitive service provider to be temporarily blacklisted for a specific period, if charges have been framed and to be permanently blacklisted, if a conviction has been ordered against it by the Special Court:

Provided that if in the opinion of the State Bureau, a delay in blacklisting may cause irreparable harm to the general public, it may, in its discretion, temporarily blacklist a sensitive service provider before the framing of charges.

(5) The Registrar of the State Bureau shall forward a copy of the order of blacklisting to the Registrar of the National Bureau.

Effects of blacklisting.

55. *(1)* Any sensitive service provider that has been blacklisted shall be prevented from carrying on the same or similar business and using the Standard Mark all over India but may carry on any other business which does not involve access to privacy of a person.

(2) The Registrar of the National Bureau shall suspend the registration or deregister any sensitive service provider against whom an order of temporary or permanent blacklisting has been passed, as the case may be, and the status of such suspension or deregistration shall be updated in the national database of sensitive service providers.

(3) The Registrar of the National Bureau shall take any other action against such sensitive service provider as may be prescribed.

Duties of sensitive service providers.

56. *(1)* The sensitive service providers shall abide by the duties as may be prescribed.

(2) The National and State Bureau shall publish guidelines and duties to be followed under this Act by the sensitive service providers at regular intervals.

CHAPTER X

OTHER POWERS AND DUTIES OF THE BUREAUS

Powers of the National, State and District Bureaus during inquiry.

57. The National Bureau, State and District Bureaus, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:

5 of 1908.

(a) summoning and enforcing the attendance of persons and compelling them to give oral or written evidence on oath and producing the documents or things;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing summons for examination of witnesses or documents; and

(f) any other matter which may be prescribed.

Power of State Bureau to order payment of compensation to the victims of voyeurism.

58. *(1)* The State Bureau under this Act shall, *suo-moto* or on the complaint of the victim, his legal heir, guardian or legal representative; or on the complaint of an accredited NGO for and on behalf of a victim or group of victims; or by the recommendations of the District Bureau or the Registrar of the National Bureau; or by order of the Special Court; inquire into the case for determining losses and awarding compensation.

(2) Where the inquiry discloses the commission of voyeurism or negligence in the prevention of voyeurism or abetment thereof, or any act or omission contrary to any provisions of this Act, it may order to the concerned party to make payment of compensation to the complainant or to the victim or the members of his family as the State Bureau may consider necessary.

(3) The State Bureau shall conduct such inquiry following the principles of natural justice, including giving reasonable opportunity of being heard to all

necessary parties and shall record reasons for its actions during the course of such inquiry.

(4) An inquiry under this section shall be a summary enquiry.

(5) The State Bureau may call for the report of an investigation, inquiry or opinion from the District Bureau, if deemed necessary and consider it during the course of its inquiry.

(6) An order passed by the State Bureau under this section shall be executable by it as a decree of a civil court, and for this purpose, the State Bureau shall have all the powers of a civil court.

(7) Notwithstanding anything contained in sub-section *(6)*, the State Bureau shall transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

(8) No compensation awarded under this Act shall prevent the imposition of any penalty under this Act and award of compensation or imposition of penalty or punishment under any other law for the time being in force.

(9) The amount of compensation awarded under this Act, if not paid, may be recovered as if it were an arrear of land revenue.

(10) The observations during inquiry and decisions of the State Bureau under this section shall not be binding on the Special Court.

(11) The format of application, fee and procedure to be followed for conducting inquiry, determining losses and awarding compensation shall be in such manner as may be prescribed.

Power to set aside *ex parte* orders.

59. Where an order is passed by the National or State Bureau *ex parte*, the aggrieved party may make an application to the respective Bureau for setting aside such order.

Finality of orders.

60. Every order of a Bureau under this Act shall, if no appeal has been preferred against such order under the provisions of this Act, deemed to be final.

Appeal to State Bureau.

61. *(1)* Any person who is aggrieved by the decision of the District Bureau concerning any subject under this Act, as may be prescribed, may prefer an appeal in the prescribed format, accompanied by the prescribed fee to the State Bureau within thirty days from the date of receipt of such decision:

Provided that the State Bureau may admit the appeal after the expiry of the period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) In disposing of an appeal, the State Bureau shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

(3) The proceedings of the State Bureau in so far as it concerns the appellate powers granted to it under this Act shall be quasi-judicial in nature.

Appeal to National Bureau.

62. *(1)* Any person who is aggrieved by the decision of the State Bureau or Registrar of the National Bureau concerning any subjects under this Act, as may be prescribed, may prefer an appeal in the prescribed format, accompanied by the prescribed fee to the National Bureau within thirty days from the date of receipt of such decision:

Provided that the National Bureau may admit the appeal after the expiry of the period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the State Bureau under section 58, shall be entertained by the National Bureau unless the appellant has deposited fifty per cent. of that amount in the manner as may be prescribed.

(2) In disposing of an appeal, the National Bureau shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

(3) The proceedings of the National Bureau in so far as it concerns the appellate powers granted to it under this Act shall be quasi-judicial in nature.

Other provisions regarding appeal.

63. *(1)* In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Bureau, as the case may be, who denied the request.

(2) In its decision, the National Bureau or State Bureau, as the case may be, has the power to—

(a) allow or reject or partially allow the appeal with or without costs;

(b) require the State Bureau, as the case may be, to compensate the appellant for any loss or other detriment suffered;

(c) impose any of the penalties regarding licences or misuse of Standard Mark provided under this Act; and

(d) take any other appropriate action against the establishments and sensitive service providers in the interest of justice.

(3) Every Bureau shall give notice of its decision, including any right of appeal and time limit for the same, to the applicant or appellant, as the case may be, and in case of appeal, to the authority against whose decision the appeal was filed.

(4) The National or State Bureau, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

Priority in processing applications and appeals.

64. The Bureaus under this Act shall process the applications and appeals, as the case may be, on a priority basis for an establishment or sensitive service provider, wherein the entity is run by a sole proprietor and such proprietor is a woman, a person belonging to the third gender, a person with disabilities, an orphan above eighteen years of age or a person belonging to an economically backward class.

Review by Bureaus.

65. The Bureaus under this Act shall have the power to review any of the orders passed by them if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order.

Experts to assist Bureaus.

66. Where any Bureau under this Act, on an application by any person or otherwise, is of the opinion that it involves the larger interest of the public, it may direct, within their jurisdiction, any individual or organisation or accredited NGO or expert to assist that Bureau.

Enforcement of orders of the State and National Bureaus.

67. Every order made by a State Bureau or the National Bureau shall be enforced by it in the same manner as if it were a decree made by a Court in a suit before it and the provisions of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 shall, as far as may be, applicable, subject to the modification that every reference therein to the decree shall be construed as reference to the order made under this Act.

5 of 1908.

Right of appellant to appoint a representative.

68. A person preferring an appeal under this Act to the State or National Bureau, as the case may be, may either appear in person or take the assistance of and authorise one or more advocates or legal practitioners, represent through any law firm or appoint any person under the Powers of Attorney Act, 1882, or in the case of an organization nominate a person by passing a resolution and granting a Letter of Authority, to present his case before the State or National Bureau. 7 of 1882.

Public servants responsible for damages.

69. *(1)* It shall be the duty of every public servant of the Bureaus to ensure that the interests of the Bureaus are duly safeguarded.

(2) If it is found that damage or loss has been caused to the Bureaus by any action on the part of any public servant of the Bureaus, not in conformity with the provisions of this Act, rules or regulations, except when done in good faith, or any failure so as to act in conformity thereof, by willful neglect or default on its or his part, such damage or loss shall be liable to be recovered from the public servant in accordance with the prescribed procedure.

Duty to inform other authorities

70. If any officer, during the course of investigation under this Act, has reason to believe that any goods, article, process, system or service is manufactured, imported, distributed, sold, hired, leased, stored or exhibited for sale in contravention of any other law for the time being in force, they shall inform the competent authority about such contravention.

Power of Bureaus to make regulations.

71. *(1)* Subject to the provisions of this Act and the Rules made thereunder, the National Bureau with the previous approval of the Central Government and the State Bureau with the previous approval of the State Government may, by notification in the Official Gazette, make regulations to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the matters mentioned in the functions of the National Bureau under section 11 and State Bureau under section 15 of this Act.

(3) Every regulation made under sub-section *(1)* by the National Bureau 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 two or more successive sessions, and if, before the expiry of the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the 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 regulation.

(4) Every regulation made under sub-section *(1)* by the State Bureau 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.

CHAPTER XI

OFFENCES AND PENALTIES

Voyeurism by physical spying.

72. Whoever commits voyeurism by physically and directly observing or spying on a person without the use of any apparatus or digital device shall—

(i) if the offence is committed by watching a private act, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; or

(ii) if the offence is committed by listening to a private conversation, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both; or

(iii) if the offence is committed by reading a letter or a document of private conversation, be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Voyeurism by hidden or drone or any other type of camera.

73. Whoever commits voyeurism of a private act by using a hidden or drone or any other type of camera which works on visible light waves, shall be punished with imprisonment of either description for a term which may extend to three years, and also with fine which may extend to three lakh rupees.

Voyeurism by special glasses.

74. Whoever commits voyeurism of a private act by using a binocular for remote viewing or by using special mirror shall—

(i) if the offence is committed by physical spying, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; or

(ii) if the offence is committed along with a camera, be punished with imprisonment of either description for a term which may extend to four years, and also with fine which may extend to five lakh rupees.

Explanation.— For the purposes of this section, "Special mirror" means a one-way mirror with other way transparent glass or a single visibility mirror, which is a type of glass that appears to be a mirror from one side and a transparent glass from the other side, and includes any other similar apparatus.

Voyeurism by hacking a digital device, juice jacking, stealing data, retrieving deleted data or other cyber techniques.

75. Save as otherwise provided in section 43 of the Information Technology Act, 2000, whoever commits voyeurism by hacking a digital device, juice jacking, stealing data, retrieving deleted data or using any other cyber techniques shall— 21 of 2000.

(i) if the offence is committed regarding a private act, be punished with imprisonment of either description for a term which shall not be less than one year, but which may extend to five years, and also with fine which may extend to five lakh rupees.

(ii) if the offence is committed regarding a private conversation, in audio, text, sign or digital code format, be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to three lakh rupees, or with both.

(iii) if the offence is committed by capturing a private conversation, in audiovisual format where facial identity of an interlocutor is disclosed, be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to four lakh rupees, or with both.

Explanation 1.— For the purposes of this section, "Juice Jacking" means installing malware or accessing or copying sensitive data using a USB or other methods from a computer device attached to a charging port equipped with a data connection.

Explanation 2.— The terms used in this section but not defined, herein shall have the same meaning as assigned to them under the Information Technology Act, 2000. 21 of 2000.

Voyeurism of private conversation by using eavesdropping device or audiovisual recording device.

76. Whoever commits voyeurism of private conversation, in audio or audiovisual format, by installing or using an eavesdropping device or audiovisual recording device, shall be punished with imprisonment of either description for a term which may extend to three years, and also with fine which may extend to three lakh rupees.

Voyeurism by use of mechanical or other electromagnetic waves.

77. Whoever commits voyeurism of a private act by using an imaging or sensing device that uses mechanical or electromagnetic waves other than cameras mentioned in section 73, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Voyeurism by influencing a person using narcotic drugs or other methods.

78. Whoever commits voyeurism by administering narcotic drugs to another person without their consent or by other methods, which results in the person so influenced unconsciously or sub- consciously doing certain private act or private conversation shall,—

(i) if the offence is committed by physically and live in-person watching a private act, be punished with imprisonment of either description for a term which shall not be less than one year, but which may extend to five years, and shall also be liable to fine.

(ii) if the offence is committed by capturing a private act, be punished with imprisonment of either description for a term which shall not be less than two years, but which may extend to seven years, and also with fine which may extend to seven lakh rupees.

(iii) if the offence is committed by physically and directly listening, reading or sensing a private conversation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both;

(iv) if the offence is committed by capturing or accessing a private conversation in audio, text, signs or digital codes format, be punished with imprisonment of either description for a term which may extend to three years, and also with fine which may extend to three lakh rupees; and

(*v)* if the offence is committed by capturing a private conversation in audiovisual format where facial identity of an interlocutor is disclosed, be punished with imprisonment of either description for a term which may extend to four years, and also with fine which may extend to four lakh rupees;

Explanation.— For the purposes of this section, the word 'any other method' includes the psychological act of influencing another person, which results in a change in the person's ordinary state of consciousness, leading to an increased response to suggestions given by the perpetrator and the person so influenced does not know the nature and consequences of the act done under such influence.

Voyeurism by criminal force, during wrongful confinement or against trafficked human or bonded labour.

79. Whoever commits voyeurism by criminal force, during wrongful confinement or against trafficked human or bonded labour shall—

(i) if such offence is committed by physically and directly watching a private act, be punished with imprisonment of either description for a term which shall not be less than one year, but which may extend to five years, and shall also be liable to fine;

(ii) if such offence is committed by capturing a private act, be punished with imprisonment of either description for a term which shall not be

less than two years, but which may extend to seven years, and also with fine which may extend to seven lakh rupees;

(iii) if such offence is committed by physically and live in-person listening, reading, sensing or accessing a private conversation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both;

(iv) if such offence is committed by capturing or accessing a private conversation in audio, text, signs or digital codes format, be punished with imprisonment of either description for a term which may extend to three years, and also with fine which may extend to three lakh rupees; and

(v) if such offence is committed by capturing a private conversation in audiovisual format where facial identity of an interlocutor is disclosed, be punished with imprisonment of either description for a term which may extend to four years, and also with fine which may extend to four lakh rupees.

Voyeurism against a child, orphan, person with mental disability, blind person, foreign tourist, abandoned widow, *pardanashin* woman or person belonging to the third gender.

80. Whoever commits voyeurism against a child, orphan, person with mental disability, blind person, foreign tourist, abandoned widow, *pardanashin* woman or person belonging to the third gender shall—

(i) if the offence is committed by physically and live in- person watching a private act, be punished with rigorous imprisonment for a term which shall not be less than one year, but which may extend to five years, and shall also be liable to fine;

(ii) if the offence is committed by capturing a private act, be punished with rigorous imprisonment for a term which shall not be less than two years, but which may extend to seven years, and also with fine which may extend to ten lakh rupees;

(iii) if the offence is committed by physically and live in-person listening, reading or sensing a private conversation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both;

(iv) if the offence is committed by capturing or accessing a private conversation in audio, text or signs format, be punished with imprisonment of either description for a term which may extend to three years, and also with fine which may extend to three lakh rupees; and

(v) if the offence is committed by capturing a private conversation in audiovisual format where facial identity of an interlocutor is disclosed, be punished with imprisonment of either description for a term which may extend to four years, and also with fine which may extend to four lakh rupees.

Voyeurism committed with the help of a child, orphan, person with mental disability, blind person or *pardanashin* woman.

81. *(1)* Whoever commits voyeurism against a third person and the voyeuristic material is recorded, captured, produced, procured, offered or disseminated with the help of a child, orphan, person with mental disability, blind person, or *pardanashin* woman shall—

(i) if the offence is committed regarding a private act, be punished with imprisonment of either description for a term which shall not be less than one year, but which may extend to five years, and also with fine which may extend to three lakh rupees.

(ii) if the offence is committed regarding a private conversation be punished with imprisonment of either description for a term which may

extend to two years, or with fine which may extend to one lakh rupees, or with both.

(2) In cases under sub-section *(1)* the child, orphan, person with mental disability, blind person, or pardanashin woman shall not be punishable as an abettor.

Voyeurism of sensitive personal data.

82. Save as otherwise provided in the Digital Personal Data Protection Act, 2023; or any other law for time being in force, whoever commits voyeurism of sensitive personal data shall— 22 of 2023.

(1) if the offence is committed by a natural person, be punished with imprisonment of either description for a term which may extend to three years, and also with fine which may extend to three lakh rupees; and

(2) if the offence is committed by a company, such company shall be punishable with a fine which may extend to twenty-five lakh rupees and every person who, at the time of commission of the offence, was in charge of and responsible to the company for the conduct of its business shall also be liable to be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine:

Provided that no such person shall be liable to any punishment under this section if they prove that the offence was committed without their knowledge or that they exercised all due diligence to prevent the commission of such offence.

Voyeurism by repeatedly or constantly monitoring the location and movements of a person.

83. Save as otherwise provided in section 78 of the Bharatiya Nyaya Sanhita, 2023 sub-section *(iv)* of section 11 of the Protection of Children from Sexual Offences Act, 2012 or any other law for time being in force, whoever commits voyeurism by repeatedly or constantly monitoring the location and movements of a person shall— 45 of 2023. 32 of 2012.

(1) if the offence is committed by a natural person, be punished with imprisonment of either description for a term which may extend to three years, and also with fine which may extend to three lakh rupees; and

*(2)*if the offence is committed by a company, such company shall be punishable with a fine which may extend to twenty five lakh rupees: and every person who, at the time of commission of the offence, was in charge of and responsible to the company for the conduct of its business shall also be liable to be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine:

Provided that no such person shall be liable to any punishment under this section if they prove that the offence was committed without their knowledge or that they exercised all due diligence to prevent the commission of such offence.

Dissemination of voyeuristic material.

84. Notwithstanding anything contained in sections 67, 67A and 67B of the Information Technology Act, 2000, whoever disseminates or causes to be disseminated any voyeuristic material in any electronic form shall— 21 of 2000.

(i) if the information of a private act is disseminated, be punished with rigorous imprisonment for a term which shall not be less than one year, but which may extend to five years, and also with fine which may extend to ten lakh rupees;

(ii) if the information of a private conversation in audio, text or signs format is disseminated, be punished with imprisonment of either

description for a term which may extend to two years, or with fine which may extend to five lakh rupees, or with both;

(iii) if the information of a private conversation in audiovisual format is disseminated, where facial identity of an interlocutor is disclosed, be punished with imprisonment of either description for a term which may extend to three years, and also with fine which may extend to four lakh rupees;

(iv) if sensitive personal data is disseminated be punished with fine which may be prescribed; and

(v) if data of location and movements is disseminated, be punished with fine as may be prescribed.

Showing or transmitting voyeuristic material of sexually explicit content to a child, orphan, person with mental disability, *pardanashin* woman.

85. Notwithstanding anything contained in this Act and clause *(iii)* of sub-section *(1)* of section 75 of the Bharatiya Nyaya Sanhita, 2023, sub-section *(iii)* of section 11 of the Protection of Children from Sexual Offences Act, 2012, sections 67, 67A and 67B of the Information Technology Act, 2000 and any other law for time being in force; whoever—

45 of 2023.

32 of 2012.
21 of 2000.

(1) shows on computer, television or smartphone or any other digital device, without transmitting, voyeuristic material of sexually explicit content to a child, orphan, person with mental disability or *pardanashin* woman, while in their presence, regardless of their consent, shall be punished with imprisonment of either description for a term which may extend to five years, and also with fine which may extend to five lakh rupees; and

(2) transmits voyeuristic material of sexually explicit content to a child, orphan, person with mental disability or *pardanashin* woman, regardless of their consent, shall be punished with rigorous imprisonment for a term which may extend to seven years, and also with fine which may extend to fifteen lakh rupees.

Explanation.— For the purposes of this section, the term "Voyeuristic material of sexually explicit content" means any voyeuristic material of a private act having sexually explicit contains in image, audiovisual or video format.

Prohibition of publication or making known any contents affecting the right to privacy of victim.

86. Except as otherwise provided by section 114 of this Act, whoever discloses the identity of the victim under this Act, including his name, address, photograph, family details, educational institution, neighbourhood, business, profession, or any other particulars which may lead to the disclosure of identity, but does not disclose the voyeuristic material, shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both:

Provided that for reasons to be recorded in writing, the Special Court may permit such disclosure if, in its opinion, such disclosure is in the interest of the victim.

Seeking, searching, browsing, downloading, watching, listening, reading, sensing, storing and possessing of voyeuristic material.

87. *(1)* Whoever seeks, searches, browses, downloads or watches any voyeuristic material as the case may be shall—

(i) if the voyeuristic material is of a private act, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both;

(*ii)* if the voyeuristic material is of a private conversation, be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both; and

(iii) if the voyeuristic material is of a sensitive personal data, be punished with fine.

(2) Whoever stores or possesses any voyeuristic material shall-

(i) if the voyeuristic material is of a private act, be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

(ii) if the voyeuristic material is of a private conversation, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both; and

(iii) if the voyeuristic material is of a sensitive personal data, be punished with fine.

Using voyeuristic material for pornographic or commercial purposes.

88. Whoever uses any voyeuristic material for pornographic or commercial purposes shall—

(i) if the voyeuristic material is of a private act, be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to ten years, and also with fine which may extend to twenty lakh rupees; and

(ii) if the voyeuristic material is of a private conversation, be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to five lakh rupees, or with both.

Using voyeuristic material, including a child, orphan, person with mental disability, blind person, foreign tourist, abandoned widow, *pardanishan* woman or person belonging to the third gender for pornographic or commercial purposes.

89. Notwithstanding anything contained in any other law for the time being in force, whoever uses any voyeuristic material which includes a child, orphan, person with mental disability, blind person, foreign tourist, abandoned widow, *pardanishan* woman or person belonging to the third gender for pornographic or commercial purposes shall—

(i) if the voyeuristic material is of a private act, be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to twelve years, and also with fine which may extend to twenty-five lakh rupees; and

(ii) if the voyeuristic material is of a private conversation, be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to ten lakh rupees, or with both.

Creating or disseminating deepfake images, videos or audio of voyeuristic nature.

90. Save as otherwise provided in any other law for the time being in force, whoever creates or disseminates deepfake image, video, or audio of voyeuristic nature depicting a private act or a private conversation shall—

(i) if the offence is committed by creating or disseminating a deepfake video, be punished with imprisonment of either description for a term which may extend to five years, and also with fine which may extend to five lakh rupees;

(ii) if the offence is committed by creating or disseminating a deepfake image, be punished with imprisonment of either description for a term which may extend to three years, and with fine which may extend to three lakh rupees; and

(iii) if the offence is committed by creating or disseminating deepfake audio, be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to two lakh rupees, or with both.

Using or disseminating voyeuristic material against rights and interests of victims in cases of sexual offences.

91. Save as otherwise provided in this Act or any other law for the time being in force, whoever being a witness or a third party to the offence of rape or any other sexual offence, uses or disseminates any captured voyeuristic material of such offence against the rights and interests of the victim, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to seven years, and also with fine which may extend to ten lakh rupees.

Punishment for sextortion.

92. Whoever uses voyeuristic material to commit sextortion, shall be punished with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and also with fine which may extend to ten lakh rupees.

Offences by juveniles.

93. *(1)* Save as otherwise provided in section 81 of this Act, where an offence under this Act has been committed by a juvenile by using a smartphone; hidden, drone or security camera; location tracker, eavesdropping device, computer or any electronic device, spying software or deepfake software; the guardian of such juvenile or the owner, holder or licensee as the case may be of such equipment or software; shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render such guardian or owner 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.

Explanation.— For the purposes of this section, the court shall presume that the use of the smartphone; hidden, drone or security camera; location tracker, eavesdropping device, computer or any electronic device, spying software or deepfake software by the juvenile was with the consent of the guardian of such juvenile or the owner, holder or licensee of the same, as the case may be.

(2) In addition to the penalty under sub-section *(1)*, such guardian or owner shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(3) Where an offence under this Act has been committed by a juvenile, then such juvenile shall be punishable with such fines as provided in the Act while any custodial sentence may be modified as per the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015.

2 of 2016.

Discriminating against victim of voyeurism.

94. Whoever does anything with the intention to discriminate against a person by reason of them being a victim of voyeurism shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Punishment to establishments carrying on business without licence of Bureau.

95. Any establishment which has an obligation under this Act to obtain a valid licence from the licencing authority and carries on business without a valid licence, shall be punished with fine as may be prescribed:

Provided that if any offence of voyeurism takes place in such establishment during the period when the establishment did not possess a valid licence, the establishment shall be punished with additional fine as may be prescribed, and the person in charge of such establishment who is in default shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both.

Punishment to establishments using fake or forged copy of licence.

96. Any establishment having an obligation under this Act to obtain a valid licence from the licencing authority under this Act, which uses as genuine a fake or forged copy of a licence and carries on business with such licence shall be punished with fine which may extend to five lakh rupees, and any

person in charge of such establishment shall be liable to punishment as mentioned in Chapter XVIII of the Bharatiya Nyaya Sanhita, 2023. 45 of 2023.

Punishment to establishments for failing to exhibit licence on a visible area of their premises.

97. Any establishment which fails to comply with the duties laid down under this Act to exhibit the licence obtained from the licencing authority or the document under the proviso to section 41 relating to deemed grant of licence on a visible area of the premises of the establishment shall be punished with fine as may be prescribed.

Punishment to establishments that refuse to show their licence to certain officials.

98. Any establishment with an obligation under this Act to obtain a valid licence from the licencing authority which refuses to show the same to the officials mentioned in section 45, shall be punished with fine as may be prescribed.

Punishment for using standard mark without bearing valid licence or registration or using deceptively similar mark.

99. Any establishment not bearing a valid licence granted or deemed granted; or any sensitive service provider not having valid registration under this Act, which makes use of the Standard Mark established under section 24 or a deceptively similar mark and contravenes provisions of sub-section *(1)* of section 25 shall be punished with fine as may be prescribed.

Contempt of the lawful authority of public servants under this Act.

100. The provisions of Chapter XIII of the Bharatiya Nyaya Sanhita, 2023, save insofar as they are inconsistent with the express provisions of this Act, shall apply to this Act. 45 of 2023.

Obstructing officials of Bureau or Police while discharging their duties.

101. Notwithstanding anything contained in section 132 of the Bharatiya Nyaya Sanhita, 2023, whoever deters or obstructs officials of the Bureau or the Police while discharging their duties under this Act, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. 45 of 2023.

Punishment for false or malicious complaint or false information.

102. Whoever makes a false or malicious complaint or provides false information against any person or files a complaint in collusion with another person under the provisions of this Act, with the intention to humiliate, extort, threaten, pressurize or defame the person or avail benefits under this Act, shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both:

Provided that and subject to presumption as to certain offences mentioned in section 130 and presumption of culpable mantle state mentioned in section 131, a mere inability to substantiate a complaint or provide adequate proof or inability to prove the accusation beyond the reasonable doubt shall not attract action against the complainant or informer:

Provided further that the malicious intent on part of the complainant or informant shall be established after an inquiry conducted by the district bureau and approved by the state bureau, in accordance with the procedure as may be prescribed, before any action against complainant or informant.

Furnishing false information by establishments or sensitive service providers.

103. Any establishment or sensitive service provider that provides false information to any person or authority to avail any benefits under this Act shall be punished with fine as may be prescribed, and the person responsible for furnishing false information shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Punishment to intermediaries.

104. *(1)* Any intermediary who fails to comply with the provisions of section 20 shall be punishable with fine which may extend to fifty lakh rupees.

(2) Any person in charge of the intermediary who acts in contravention of the provisions of section 20 shall be punishable with imprisonment for a term

which may extend to three years, or with fine which may extend to ten lakh rupees, or with both.

21 of 2000.

(3) Notwithstanding anything contained in section 72A of the Information Technology Act, 2000, or any other law for the time being in force, any intermediary who, while providing services under the terms of lawful contract, has secured access to any voyeuristic material, with the intent to cause or knowing that he is likely to cause wrongful loss or wrongful gain, without the consent of the person concerned, or in breach of a lawful contract, discloses such material to any other person, shall be punished with fine which may extend to fifty lakh rupees.

(4) Any person in charge of the intermediary who is in default of the provisions of sub-section *(3)*, shall be punishable with other relevant provisions of this Act.

(5) Any intermediary or person contravening provisions of section 21 shall be punishable as may be prescribed.

Punishment to recidivists.

105. Whoever, having already been convicted by a Court in India for an offence punishable under this Act or by a foreign Court for any similar offence, with imprisonment of either description for a term of three years or upwards, is again convicted for any offence punishable under this Act with like imprisonment for the like term or a higher term, may be subject, for every such second or subsequent offence, to additional imprisonment of either description for a term which may extend to five years, and may also be liable to additional fine.

Abetment to commit voyeurism.

106. Whoever abets any offence mentioned under this Act shall be liable to punishment as prescribed in Chapter IV of the Bharatiya Nyaya Sanhita, 2023.

45 of 2023.

Attempt to commit an offence punishable under this Act.

107. Whoever attempts to commit an offence punishable under this Act with imprisonment of either description for a term exceeding up to three years, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of imprisonment provided for that offence, or with fine, or with both.

Offences by companies.

108. *(1)* Where an offence under this Act 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:

Provided that where a company has different branches or different units in any branch, the concerned Head or the person in-charge of such branch, unit nominated by the company as responsible for its activities shall be liable for contravention in respect of such branch or unit:

(2) Nothing in sub-section *(1)* shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything 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.

(4) Where an offence under this Act has been committed by a person, being a company, and the punishment for such offence is imprisonment and fine, then, without prejudice to sub-section *(1)* or sub-section *(3),* such company shall be punished with fine and every person, referred to in sub-section *(1),* or the director, manager, secretary or other officer of the company referred to in sub-section *(3),* shall be liable to be proceeded against and punished in accordance with the provisions of this Act.

Explanation.– For the purposes of this section—

(a) "company" means a body corporate, and includes—

(i) an unincorporated body;

(ii) a Hindu undivided family;

(iii) an establishment under this Act;

(iv) a sensitive service provider company under this Act;

(b) "director", in relation to—

(i) an unincorporated body, means a person in charge of the body;

(ii) a Hindu undivided family, means the Karta of the family;

(iii) a company, means a whole-time director, or where there is no such director, any other director or manager or officer, who is in charge of the affairs of the company;

(iv) a firm, means a proprietor or partner in the firm;

(v) a trust, means the managing trustee or secretary.

Punishment for vexatious search.

109. The officers of the Bureaus or any other public servant, exercising powers under this Act, who knows that there are no reasonable grounds for so doing, without following the procedure established under law and without reasons recorded in writing—

(a) searches, or causes to be searched any premises, record, register, document, article, smartphone or computer; or

(b) seizes any record, register, document, article, smartphone or computer; or

(c) detains or searches or arrests any person, shall, for every such offence, be punished with imprisonment for a term which may extend to two years, or with fine or with both.

Offences by public servants of Bureaus and police.

110. Save as otherwise provided in this Act, any public servant of the Bureaus and Police Department who commits the offence of voyeurism shall, in addition to the other punishments applicable under this Act, be punished with penalty as may be prescribed.

Exemptions and defences to offences mentioned in this Act.

111. *(1)* Notwithstanding anything contained in this Act, whoever collects information by violating the privacy of others for the purpose of using such information in the court of law as evidence to prove the illegal act or omission; or for larger public interest; or for any other purposes as may be prescribed, he shall be exempted from the punishment mentioned under this Act:

Provided that such person shall not disseminate or transmit the information or any part thereof to any person except the competent authority

under this Act or any other law for the time being in force in order to lawfully deal with the collected information:

Provided further that any person shall also be exempted if he disseminates such information to a third person other than the competent authority or the public at large, if the competent authority is satisfied that such dissemination justifies the larger public interest or benefits sovereignty and integrity of India, or the security, strategic, scientific or economic interests of the State, or relation with foreign State, or prevention of an offence or illegality or for any other purposes, as may be prescribed.

(2) Poor eyesight or hearing shall not be a defence for any offence under this Act.

Offences to be cognizable and non-bailable.

112. Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, the offences under this Act for which the punishment is an imprisonment of either description for a term of three years and above shall be cognizable and non-bailable.

46 of 2023.

Compounding of offences.

113. *(1)* Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, any offence punishable under this Act whether committed by a company or any individual, either before or after the institution of any prosecution, may be compounded by—

46 of 2023.

(a) the Bureaus, if any offence punishable with only fine, on the payment of such sum as may be prescribed,

(b) the Special Court, if any offence for which the punishment is an imprisonment of either description for a term not exceeding three years, on the payment of such sum as the Special Court may specify.

(2) The Special Court may, in addition to such sum, require the offender to undertake a period of community service:

Provided that community service shall be provided based on the suitability of the offender and for such time and in such manner as the Special Court thinks fit, under the supervision of the District Bureau.

(3) When an offence has been compounded, the offender, if in custody, shall be discharged, and no further proceedings shall be taken against him in respect of the offence compounded.

(4) Nothing contained in sub-section *(1)* shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date—

(a) of commission of a similar offence which was earlier compounded;

(b) of commission of a similar offence for which such person was earlier convicted.

CHAPTER XII

INVESTIGATION INTO CASES UNDER THE ACT

Reporting of offences.

114. *(1)* Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, any person, who has apprehension that an offence under this Act is likely to be committed or has knowledge that such an offence has been committed against himself or any other person, shall provide such information to—

46 of 2023.

(a) the District Bureau, or

(b) the Local Police.

(2) Every information received under sub-section *(1)* shall be—

(a) ascribed an entry number and recorded in writing;

(b) read over to the informant;

(c) entered in a book to be kept by the District Bureau and the Local Police;

(d) taken by a woman officer only, if the informant is a woman or a child; and

(e) taken, as far as practicable, by an officer belonging to the gender the informant is comfortable with, if the informant belongs to the third gender.

(3) Where any information under sub-section *(1)* is given by a child or *pardanashin* woman or a person with any temporary or permanent physical or mental disability or wherever deemed necessary, the same shall be recorded in a simple language so that the informant understands the contents being recorded and the information shall be recorded at the residence of the informant or a convenient place of choice of the informant.

(4) In cases where the contents are being recorded in the language not understood by the child or *pardanashin* woman or person with any temporary or permanent physical or mental disability or wherever it is deemed necessary, a translator, interpreter or special educator, having such qualifications, experience and on payment of such fees as may be prescribed, shall be provided by the District Bureau to such person if they fail to understand the same.

(5) A copy of the information recorded under sub-section *(2)* shall be given forthwith, free of cost, to the informant, accused and victim.

(6) The District Bureau or the Local Police, as the case may be, to whom the information regarding any offence under this Act is first received shall, without unnecessary delay but within a period of twenty-four hours, report the matter to the Special Court or where no Special Court has been designated, to the Court of Session, including the need of the victim for care and protection and steps taken in this regard.

(7) For the purposes of sub-section *(1)*, no person shall incur any liability, whether civil or criminal, for giving information in good faith.

(8) If the District Bureau or the Local Police, as the case may be, denies to take cognizance of an offence or fails to give decision on the request to take cognizance of the offence within twenty-four hours, the District Bureau or the Local Police, as the case may be, shall be deemed to have refused the request.

(9) Any aggrieved person or any person or organization on behalf of the aggrieved person under sub-section *(8),* may prefer an appeal to the State Bureau and notwithstanding anything contained in section 210, and sub-sections *(3)* and *(4)* of section 175 of the Bharatiya Nagarik Suraksha Sanhita, 2023, may file a complaint to the Special Court; to order the District Bureau and local police to register the case. 46 of 2023.

Preliminary inquiry and investigation.

115. *(1)* Where the District Bureau first receives any information under sub-section *(1)* of section 114, the Bureau may make a preliminary inquiry if required, and the officer of the District Bureau shall inform the officer in charge of the nearest Police Station under whose jurisdiction the offence is committed about the same and assist the complainant in filing a First Information Report under section 173 or section 174 of the Bharatiya Nagarik Suraksha Sanhita, 2023, as the case may be: 46 of 2023.

Provided that in a case where the officer of the District Bureau takes *suo moto* cognizance of any offence under this Act, such officer shall file a First Information Report with the Local Police:

Provided further that in the above case, the officer of the Bureau who files the First Information Report shall not be the investigating officer for the same offence.

(2) Where the officer in charge of the police station first receives such information, he shall immediately inform the District Bureau and then register the First Information Report under section 173 or section 174 of the Bharatiya Nagarik Suraksha Sanhita, 2023, as the case may be. 46 of 2023.

(3) Any voyeuristic material in possession of the victim or accused, if any, shall be accessed only by the officials of the District Bureau.

(4) Where the investigating officer of the District Bureau or the officer in charge of the police station is satisfied that the victim against whom an offence has been committed is in need of care and protection, then, the officer shall, after recording the reasons in writing, make immediate arrangement to give the victim such care and protection including providing psychological counselling from expert psychologist, admitting the victim into a shelter home or to the nearest hospital within twenty-four hours of the report, as may be prescribed.

(5) In cases where a woman or a child is the victim, any inquiry or investigation shall be conducted under the supervision of a woman officer only.

(6) In cases where a person belonging to the third gender is the victim, any inquiry or investigation shall be conducted, as far as practicable, under the supervision of an officer belonging to the gender with which the person is comfortable, and all measures shall be taken to ensure that such person does not face any discrimination with respect to their gender.

(7) All measures shall be taken to ensure that the right to privacy of the victim is not violated.

Arrest and custody.

116. *(1)* Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, no officer below the rank of inspector of the District Bureau may enter any place and search and arrest any person found therein who is reasonably suspected of having committed or of committing or of being about to commit any offence under this Act. 46 of 2023.

(2) The provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 , shall, subject to the provisions of this section, apply, so far as may be, in relation to any entry, search or arrest, made under this section. 46 of 2023.

(3) The State Government shall provide, for the detention of arrested persons in the territories under such Government, lock ups at every District Bureau constructed and regulated in such manner as may be prescribed.

(4) The investigation officer of the District Bureau shall produce the arrested person before the Special Court after which the arrested person may be subjected to further custody or bail as per the provisions of section 187 of the Bharatiya Nagarik Suraksha Sanhita, 2023. 46 of 2023.

Procedure for investigation.

117. *(1)* Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, the Information Technology Act, 2000 and in any other law for time being in force, the inquiry and investigation with respect to the offences under this Act shall be conducted by the District Bureau: 46 of 2023. 21 of 2000.

Provided that in cases where any offence under this Act is committed in congruence with other offences mentioned in any other law for the time being in force, the part of the inquiry and investigation related to the offences under this Act shall be conducted by the District Bureau and the part of the inquiry and investigation related to other offences shall be conducted by the Local Police or other competent authority, as may be

prescribed, as the case may be, under whose jurisdiction the offence is committed.

(2) The investigation report, as prescribed under section 193 of the Bharatiya Nagarik Suraksha Sanhita, 2023, shall be filed by the investigating officer of the District Bureau, on completion of the investigation, to the Special Court or where no Special Court has been designated, to the Court of Session: 46 of 2023.

Provided that in cases where any offence under this Act is committed in congruence with other offences mentioned in any other law for the time being in force, the officer in charge of the local police station or other competent authority, as may be prescribed, shall file the investigation report with the assistance of the investigating officer of the District Bureau:

Provided further that if any offence punishable under this Act with only fine, the investigation report, as prescribed under section 193 of the Bharatiya Nagarik Suraksha Sanhita, 2023, shall be filed by the investigating officer of the District Bureau, on completion of the investigation, to the State Bureau. 46 of 2023.

(3) The investigation report shall be filed within ninety days from the date on which the information was first recorded by the District Bureau or the Local Police, whichever is the earlier.

(4) The District Bureau, shall, while inquiring and investigating into any matter under this section, have the same powers as the Police under the Bharatiya Nagarik Suraksha Sanhita, 2023 and other laws of the concerned State. 46 of 2023.

(5) The powers to release the accused when evidence is deficient, under section 189 of the Bharatiya Nagarik Suraksha Sanhita, 2023 shall be vested with the District Bureau. 46 of 2023.

(6) Any offences other than the offences mentioned under this Act, if committed during the inspection, inquiry or investigation process of the District Bureau against an employee of the Bureau, the employee may file a First Information Report with the Police Station under whose jurisdiction such offence is committed, and such a case shall be further investigated by an officer not below the rank of Deputy Superintendent of the Police.

(7) In certain cases, whenever deemed necessary, the investigation may be handed over, and the filing of the investigation report of the offences under this Act may be carried out by any other competent authority, as may be prescribed, on special order by the appropriate Government or the court of competent jurisdiction after recording its reasons in writing.

(8) In cases of offences under this Act by Public Servants of Bureaus and Police department, the investigation shall be carried out in the manner as may be prescribed.

Search and seizure.

118. *(1)* For the purpose of conducting an investigation under this Act, the Superintendent of the District Bureau or any other officer authorised by him in this behalf may, if he has any reason to believe that any person has committed any offence under this Act, shall—

(a) enter at any reasonable time into any such premises and search for any computer, smartphone; hidden, drone or security camera; location tracker, eavesdropping device, any electronic device, spying or deepfake software; document, record or article or any other form of evidence and seize such items;

(b) make a note or an inventory of such record or article; or

(c) require any person to produce any item mentioned in sub-section *(a)*.

(2) Any public servant while conducting a search, seizure or investigation under this Act, shall not violate the privacy of the users or consumers, if any, present in the premises under search.

46 of 2023.

(3) The provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023, relating to search and seizure shall apply, as far as may be, for search and seizure under this Act.

Procedure for accessing computer data during investigation.

119. Notwithstanding anything contained in any other law for the time being in force,

(i) No person shall unlock any seized computer or access its data except with prior permission of the Special Court.

(ii) The Special Court may, at its discretion, grant permission to the officers of the District Bureau to access the data of the computer:

Provided that a special software to monitor the activities performed shall be installed on the seized computer and the computer on which the data is to be copied or cloned, if any, in the presence of the Special Court or any judicial magistrate or two technically competent witnesses and the record of the chain of custody shall be maintained:

Provided further that the hash value of the seized computer shall be generated after installation of the special software, a report of the same forwarded to the Special Court and a copy of the same given to the accused or owner of the seized computer, as the case may be.

Explanation.—

"Special software" shall mean software developed, owned and controlled by the Government to record the activities on a seized computer and generate the report of the activity log of the same.

(iii) The investigating officer shall, after completion of the search of the seized computer, submit the report of the activity log generated through the special software, report of hash value and report of chain of custody to the Special Court and the State Bureau and a copy of the same shall be provided to the accused or the owner of the computer, as the case may be.

(iv) The State Bureau shall, during investigation, monitor the activities, hash value and chain of custody of the seized computer and the computer on which the data is to be copied or cloned, if any, as the case may be, using the installed special software and report to the Special Court any misconduct on the part of the officers and employees.

(v) The investigating officer shall, before returning the seized computer to the accused or owner, as the case may be, uninstall the special software in the presence of the Special Court or any judicial magistrate or two technically competent witnesses:

Provided that the investigating officer shall generate the report of hash value, report of activity log and report of chain of custody before handing over the possession of the computer to the accused or owner of the computer and the same shall be forwarded to the Special Court, State Bureau and accused or owner of the computer, as the case may be.

(vi) It shall be the duty of the National Bureau to ensure that the special software and the data collected therefrom is secure at all times by using such means as maybe prescribed.

(vii) Where any person is released without trial or discharged or acquitted by the court, after exhausting all legal remedies, the data from the computer copied or cloned shall, unless the Special Court, for reasons to be recorded in writing otherwise directs, be destroyed from records.

(viii) Any person who does not follow the prescribed procedure under this Act for the seizure or search of a computer shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or both.

Procedure for dealing with voyeuristic material.

120. *(1)* Any voyeuristic material collected during the course of the investigation, if any, shall be sealed by the District Bureau after the completion of the investigation and shall be made accessible only to the Special Court.

(2) Any public servant handling the voyeuristic material shall ensure that no such material is disseminated by any means at his instance to any person apart from those persons involved in the course of the investigation or trial.

(3) The Special Court shall ensure that the identity of the victim is not disclosed at any time during the course of investigation or trial:

Provided that for reasons to be recorded in writing, the Special Court may permit such disclosure if, in its opinion, such disclosure is in the interest of the victim or society.

Explanation.—

For the purposes of this sub-section, the "identity of the victim" shall mean facial identity and shall also include the victim's name, address, photograph, family details, educational institution, relatives, neighbourhood, workplace, business, profession or any other information by which the identity of the victim may be revealed.

(4) Notwithstanding anything contained in section 72 of the Information Technology Act, 2000, any public servant, who fails to comply with the duty mentioned under sub-section *(2)* shall, in addition to the other punishments applicable under this Act, be punished with penalty as may be prescribed. 21 of 2000.

Obligation on public servant to maintain confidentiality.

121. *(1)* Every public servant, on receipt of any information by any means related to voyeurism which requires immediate search and seizure, shall maintain to the extent possible the confidentiality of any such information received which if disclosed may hamper any work of the District Bureau, until the completion of such work.

(2) Any public servant who discloses such confidential information shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or both.

Obligation on employees or personnel of establishment or sensitive service provider to report cases.

122. Any employee or personnel of an establishment or sensitive service provider, irrespective of the number of persons employed therein, shall, at their workplace on coming across, any incidence of offence of voyeurism, or any voyeuristic material, or any software, gadget or object which can be used to commit voyeurism; provide such information to the District Bureau or the Local Police.

Punishment for failure to report or record a case.

123. *(1)* Any person who fails to perform the duty under section 122 or who fails to record the offence under sub-section *(2)* of section 114 shall be punished with imprisonment of either description for a term which may extend to six months or with fine or with both.

(2) Any person, being in charge of any establishment or sensitive service provider, by whatever name called, who fails to perform the duty under section 122 against a subordinate under his control, shall be punished with

imprisonment of either description for a term which may extend to one year, or with fine, or with both.

(3) Where an establishment or sensitive service provider commits an offence under section 122, every person who was in charge of, and was responsible to report or record a case under section 122, the establishment or sensitive service provider for the conduct of its business, as well as the establishment or sensitive service provider, shall be deemed to be guilty of the offence and shall be liable to punishment in accordance with sub-sections *(1)* and *(2)*.

Procedure for media.

124. *(1)* No person shall make any report or present comments on the accused or the victim without having complete and authentic information about the same to any form of media or studio or photographic facilities which may have the effect of lowering the reputation or infringing upon the privacy of the victim or accused.

Provided that no report or comment shall label or represent the accused person as a voyeur unless the accused person is convicted for the offence of voyeurism under this Act.

(2) No reports in any media shall disclose the identity of the victim, including his name, address, photograph, family details, educational institution, neighbourhood, business, profession or any other particulars which may lead to the disclosure of identity:

Provided that for reasons to be recorded in writing, the Special Court, may permit such disclosure if, in its opinion, such disclosure is in the interest of the victim.

(3) The publisher or owner of the media or studio or photographic facilities, by whatever name called, shall be jointly and severally liable for the acts and omissions of its employees.

(4) Any person who contravenes the provisions of sub- section *(1)* or sub-section *(2)* shall be liable to be punished with imprisonment of either description for a term which shall not be less than six months but which may extend to one year or with fine or with both.

Other officers required to assist Bureau officers.

125. All officers of Police and other Government departments shall be required to assist the officers of the National, State and District Bureaus in the execution of this Act.

CHAPTER XIII

PROCEDURE FOR RECORDING OF STATEMENT OF THE VICTIM

Recording of statement of victim by District Bureau or police.

126. *(1)* The statement of the victim of voyeurism of a private act shall be recorded at the residence of the victim or at the place where he usually resides or the place where the offence was committed or was likely to be committed or in a special room in the office of the District Bureau specified for this purpose or at the place of his choice by an officer of the District Bureau, not below the rank of Inspector and as far as practicable by a woman officer in cases where the victim is a woman or a child and by an officer belonging to the gender the victim is comfortable with if the victim is a person belonging to the third gender.

(2) The officer, while recording the statement of the victim of voyeurism of a private act, shall not be in uniform if the statement is being recorded outside the office of the Bureau, but shall carry proof of his official identity and show it to the victim before recording the statement.

(3) The statements of a victim other than a victim of voyeurism of a private act shall be recorded as per the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023.

46 of 2023.

(4) The officer making the investigation shall, while examining the victim, ensure that at no point in time, the victim comes in contact in any way with the accused.

(5) No victim shall be detained in the office of the Bureau or Police Station in the night for any reason, nor shall the victim be subject to unnecessary restraint at any point in time.

(6) The officer shall ensure that the identity of the victim is protected from the public media unless otherwise directed by the Special Court in the interest of the victim.

Recording of statement of victim by magistrate.

127. *(1)* If the statement of the victim is being recorded under section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the Magistrate recording such statement shall, notwithstanding anything contained therein, record the statement as spoken by the victim: 46 of 2023.

Provided that the provisions contained in the first proviso to sub-section *(1)* of section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 shall, so far as it permits the presence of the advocate of the accused shall not apply in the case of voyeurism of a private act, unless the Magistrate consents to the same. 46 of 2023.

(2) The Magistrate shall provide to the victim or his representative a copy of the document specified under section 230 of the Bharatiya Nagarik Suraksha Sanhita, 2023, upon the final report being filed by the officer of the bureau or police as the case may be, under section 193 of that Sanhita: 46 of 2023.

Provided that in cases where the victim is a minor or a person with such a disability which renders the person unable to make legally binding decisions, or where the Court deems fit, a copy of the same shall be provided to the parent or guardian.

(3) Notwithstanding anything contained in section 366 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the recording of statements under this Act shall be conducted in camera. 46 of 2023.

(4) Notwithstanding anything contained under section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in cases where the victim is a woman or a minor, the statement shall be recorded, as far as practicable, by a woman magistrate or a magistrate belonging to the gender the victim is comfortable with if the victim is a person belonging to the third gender. 46 of 2023.

Additional provisions regarding statement to be recorded.

128. *(1)* The Magistrate or the officer, as the case may be, shall record the statement as spoken by the victim in the presence of any person in whom the victim has trust or confidence.

(2) Wherever necessary, the Magistrate or the officer, as the case may be, may take the assistance of a translator or an interpreter, having such qualifications, experience and on payment of such fees as may be prescribed, while recording the statement of the victim.

(3) The Magistrate or the officer, as the case may be, may, in the case of a victim having a mental or physical disability, seek the assistance of a special educator or any person familiar with the manner of communication of the victim or an expert in that field, having such qualifications, experience and on payment of such fees as may be prescribed, to record the statement of the victim.

(4) Wherever possible, the Magistrate or the officer, as the case may be, shall ensure that the statement of the victim is also recorded by audio-video electronic means.

CHAPTER XIV

SPECIAL COURTS

Designation of Special Courts.

129. *(1)* For the purposes of providing a speedy trial, the State Government shall in consultation with the Chief Justice of the High Court, by notification in the Official Gazette, designate for each district, a Court of Session to be a Special Court, or any other Court as it may deem fit, to try the cases under this Act:

Provided that if a Court of Session is notified as a Special Court designated for similar purposes under any other law for the time being in force, such a court shall be deemed a Special Court under this section.

(2) While trying an offence under this Act, a Special Court shall also try an offence other than the offences under this Act, with which the accused may, under the Bharatiya Nagarik Suraksha Sanhita, 2023, be charged at the same trial.

46 of 2023.

(3) The Special Court constituted under this Act, notwithstanding anything contained in any other law for the time being in force, shall have jurisdiction to try offences under that Act in so far as it relates to definition of voyeurism under this Act.

Presumption as to certain offences.

130. Where a person is prosecuted for committing or abetting or attempting to commit any offence under this Act regarding a private act, the Special Court shall presume that such person has committed or abetted or attempted to commit the offence, as the case may be, unless the contrary is proved.

Presumption of culpable mental state.

131. *(1)* In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the Special Court shall presume the existence of such mental state, but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

(2) For the purposes of this section, a fact is said to be proved only when the Special Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

Explanation.— For the purpose of this section, "culpable mental state" includes intention, motive, knowledge of a fact and the belief in, or reason to believe, a fact.

Application of the Bharatiya Nagarik Suraksha Sanhita, 2023 to proceedings before Special Court.

132. Save as otherwise provided in this Act, the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023, including the provisions as to bail and bonds, shall apply to the proceedings before a Special Court, and for the purposes of the said provisions, the Special Court shall be deemed to be a court of Sessions and the person conducting a prosecution before a Special Court, shall be deemed to be a Public Prosecutor.

46 of 2023.

Special Public Prosecutors.

133. *(1)* The State Government shall, by notification in the Official Gazette, appoint a Special Public Prosecutor for every Special Court for conducting certain cases under the provisions of this Act.

(2) A person shall be eligible to be appointed as a Special Public Prosecutor under sub-section *(1)* only if he had been in practice for not less than seven years as an advocate.

(3) Every person appointed as a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause *(v)* of sub-section *(1)* of section 2 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and provisions of that Sanhita shall have effect accordingly.

46 of 2023.

CHAPTER XV

PROCEDURE AND POWER OF SPECIAL COURTS AND RECORDING OF EVIDENCE

Procedure and powers of Special Court.

134. *(1)* A Special Court shall take cognizance of any offence, without the accused being committed to it for trial, upon receiving a complaint of facts which constitute such offence, or upon a police report or a report by the District Bureau or a private complaint by an aggrieved person, of such facts and shall follow the procedure prescribed by the Bharatiya Nagarik Suraksha Sanhita, 2023 for the trial of warrant cases by Magistrates. 46 of 2023.

(2) Notwithstanding anything contained in sections 230 and 231 of the Bharatiya Nagarik Suraksha Sanhita, 2023 , the Special Court in its discretion shall, either order to supply a copy of the voyeuristic material to the accused by imposing conditions at the initial stage of the trial; or only allow to inspect it personally or through a legal representative or to both in the court whenever deemed necessary, considering the nature of the case, after recording its reasons in writing, to ensure the privacy of the victim. 46 of 2023.

(3) The Special Public Prosecutor or the Public Prosecutor, or as the case may be, the counsel appearing for the accused shall, while recording the examination-in-chief, cross-examination or re-examination of the victim, communicate the questions to be put to the victim to the Special Court which shall, in turn, put those questions to the victim in cases where the victim is a child, orphan, blind person, person with mental disability, foreign tourist, *pardanashin* woman or person belonging to the third gender.

(4) The Special Court may, if it considers necessary, permit frequent breaks for the victim during the trial.

(5) The Special Court shall create a victim-friendly atmosphere by allowing a family member, guardian, friend or relative in whom the victim has trust or confidence to be present in the court.

(6) The Special Court shall ensure that the victim is not called repeatedly to testify in the court.

(7) The Special Court shall not permit aggressive questioning or character assassination of the victim and ensure that the dignity of the victim is maintained at all times during the trial.

(8) Subject to provisions of section 58, in appropriate cases, the Special Court may, in addition to the punishment, direct payment of such damages, as may be prescribed, to the victim for any physical or mental trauma caused to him or for immediate rehabilitation of such victim.

(9) Subject to the provisions of this Act, a Special Court shall, for the purpose of the trial of any offence under this Act, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session, and as far as may be, in accordance with the procedure specified in the Bharatiya Nagarik Suraksha Sanhita, 2023 for trial before a Court of Session. 46 of 2023.

(10) Whenever two or more persons are prosecuted for an offence under this Act, the Special Court may, at any stage of the investigation or inquiry into or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and every other person concerned, whether as principal or abettor, in the commission thereof and any pardon so tendered shall, for the purposes of sub-sections *(1)* to *(5)* of section 345 of the Bharatiya Nagarik Suraksha Sanhita, 2023, be deemed to have been tendered under section 344 of that Sanhita. 46 of 2023.

(11) Save as provided in sub-sections *(1)* or sub-section *(2)*, the provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023, shall, so far as they are not inconsistent with this Act, apply to the proceedings before the Special Court. 46 of 2023.

(12) For the purpose of this Act, all the powers of the magistrate under the Bharatiya Nagarik Suraksha Sanhita, 2023, shall be vested with the Special Court. In particular and without prejudice to the generality of the other provisions contained in this chapter, the provisions of section 58, sub-section *(3)* and *(4)* of section 175, section 183, section 187, section 210, section 227, section 365 and 521 of the Bharatiya Nagarik Suraksha Sanhita, 2023, shall, so far as may be, apply to the proceedings before the Special Court, and for the purposes of the said provisions, a judge of the Special Court shall be deemed to be a Magistrate. 46 of 2023.

(13) The Special Court may pass upon any person convicted by it any sentence authorised by law for the punishment of the offence of which such person is convicted.

(14) Where any person has been convicted for an offence punishable under this Act with imprisonment of either description for a period of one year and above, the Special Court shall order mandatory rehabilitation and counselling for the convicted person for such period as it deems fit.

(15) The Special Court may, after taking into consideration the circumstances of the case, in its discretion, order that the directions, orders and judgments in cases under this Act shall be published on the Court or Bureau website or Law Reporters only after concealing the name of the victim or any other person.

Period for recording of evidence of victim and disposal of case.

135. *(1)* The evidence of the victim shall be recorded within a period of thirty days of the Special Court taking cognizance of the offence, and reasons for delay, if any, shall be recorded by the Special Court.

(2) Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, the trial of an offence by the Special Court shall be held, as far as practicable, on day-to- day basis and an endeavour shall be made to ensure that the said trial is concluded within a period as may be prescribed. 46 of 2023.

(3) The Special Court shall ensure that the victim of voyeurism of sexual nature is not exposed in any way to the accused at the time of recording of the evidence, while at the same time ensuring that the accused is in a position to hear the statement of the victim and communicate with his advocate.

(4) For the purposes of sub-section *(3),* the Special Court may record the statement of a victim through video conferencing or by utilising single visibility mirrors or curtains or any other device.

Trials to be conducted in camera.

136. The Special Court shall, on application by either party, try cases in camera and conduct the trial and pass the judgment in the presence of any person in whom the victim has trust or confidence:

Provided that where the Special Court is of the opinion that the victim needs to be examined at a place other than the court, it shall proceed to issue a commission according to the provisions of section 319 of the Bharatiya Nagarik Suraksha Sanhita, 2023. 46 of 2023.

Assistance of interpreter or expert while recording evidence of victim.

137. *(1)* Wherever necessary, the Court shall take the assistance of a translator or interpreter having such qualifications, experience and on payment of such fees as may be prescribed while recording the evidence of the victim.

(2) If a victim has a mental or physical disability, the Special Court shall take the assistance of a special educator or any person familiar with the manner of communication of the victim or an expert in that field, having such

qualifications, experience and on payment of such fees as may be prescribed to record the evidence of the victim.

Guidelines to rehabilitate and assist the victims by experts.

138. Subject to such rules as may be made in this behalf, the National Bureau shall prepare guidelines for the inclusion of accredited NGOs, professionals and experts or persons with knowledge of privacy laws, cyber security, data protection, psychology, social work, physical health, mental health, and human development to be associated with the pre-trial and trial stage to assist and rehabilitate the victims.

Power of Special Court to order destruction of voyeuristic material.

139. The Special Court may order for destruction of voyeuristic material or any copies of it as the case may be, in the custody of the Court or that are in the possession or power of the accused or convicted person, Bureaus, Intermediary or any other person.

CHAPTER XVI

PROVISIONS RELATING TO CENTRAL AND STATE GOVERNMENTS

Special efforts by appropriate Government.

140. The appropriate Government shall endeavor to—

(i) develop such mechanisms and artificial intelligence and take all necessary measures at regular intervals to permanently eliminate any voyeuristic material which may be available on any digital platform,

(ii) collaborate with other countries and sign treaties to eliminate voyeuristic and non-consensual data from all international digital platforms,

(iii) create a secure online portal for the forwarding, by any person, of voyeuristic material in order to obtain the unique digital code of the material whereby it can be used in the investigation to stop the dissemination of such material using reverse image or video search and linking them to Anti-virus and Software companies for removal of such material from any computer which uses such Anti-virus and other software or other means:

Provided that notwithstanding anything inconsistent contained in this Act, forwarding any such information to such portal shall not be an offence under this Act.

Provision for comprehensive sex education in schools and colleges.

141. The Central, State, and Local Governments shall endeavour to incorporate comprehensive sexuality education which will also include information about Anti voyeurism and Privacy, in the curriculum at school and college level.

Public awareness about the Act.

142. *(1)* The appropriate Government shall take all measures to ensure that—

(a) the provisions of this Act are given wide publicity through media, including the television, radio and the print media, at regular intervals in order to generate public awareness of the provisions of this Act, especially among children, orphans, pardanashin women, persons with disabilities, foreign tourists and persons belonging to the third gender.

(b) the officers of the appropriate Government, and other concerned persons (including the police officers) are imparted periodic training on the matters relating to the implementation of the provisions of the Act.

(2) Every Police Station shall set up a notice board containing helpful information for the victim and the grievance redressal mechanism available under this Act along with the address of the nearest District Bureau and its contact information in English and the local language.

(3) The appropriate Government may take any other measures, as may be prescribed, for the purposes of this section.

Monitoring of implementation of this Act.

143. *(1)* The National Human Rights Commission constituted under section 3, or as the case may be, the State Human Rights Commission constituted under section 21, of the Protection of Human Rights Act, 1993; the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990 and the respective State Commissions for Women constituted under the respective State laws; the National Council for Transgender Persons constituted under section 16 of the Transgender Persons (Protection of Rights) Act, 2019; the National Commission for Protection of Child Rights constituted under section 3, or as the case may be, the State Commission for Protection of Child Rights constituted under section 17 of the Commissions for Protection of Child Rights Act, 2005 and the Bureau of Indian Standards constituted under section 3 of the Bureau of Indian Standards Act, 2016 shall, in addition to the functions assigned to them under their respective Acts, also monitor the implementation of the provisions of this Act without undue interference in the regular activities of the authorities constituted under this Act or the quasi-judicial freedom of the National and State Bureaus under this Act in such manner as may be prescribed by the Central Government.

10 of 1994.

15 of 1993.

40 of 2019.

4 of 2006.

11 of 2016.

(2) The Commissions referred to in sub-section *(1)* shall, while inquiring into any matter relating to the implementation of this Act, have the same powers as are vested in them under their respective Acts.

(3) The Commissions referred to in sub-section *(1)* shall also include their activities under this section in their annual reports.

Grants by Central and appropriate Government.

144. The Central and State Governments may, after due appropriation made by Parliament or the State Legislature, as the case may be, by law in this behalf, make to the Bureaus and accredited NGOs under this Act grants of such sums of money as that Government may think fit for being utilised for the purposes of this Act.

Power to make rules.

145. *(1)* The appropriate Government may, on the recommendations of the National and State Bureau, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) The Central Government may, in consultation with the National Bureau and the Insurance Regulatory and Development Authority of India established under sub-section *(1)* of section 3 of the Insurance Regulatory and Development Authority Act, 1999, make rules for introducing privacy insurance and cyber security insurance for establishments and sensitive service providers in order to compensate any loss incurred to their users.

41 of 1999.

(3) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the qualifications and experience of, and the fees payable to, a translator, an interpreter, a special educator or any person familiar with the manner of communication of the witness or an expert in that field, under sub-section *(4)* of section 114; sub-section *(2)* of section 128 and section 137;

(b) care and protection and emergency medical treatment of the victim under sub-section *(4)* of section 115;

(c) the manner of periodic monitoring of the provisions of the Act under sub-section *(1)* of section 143 and sub-section *(3)* of section 155;

(d) the uniform, badges of ranks, medals, etc. to be used by the officials and employees of the Bureaus; and

(e) any other matter which is required to be, or may be, prescribed.

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

Power to amend the First Schedule.

146. *(1)* The appropriate Government may, if it is of opinion that it is expedient or necessary in the public interest so to do, by notification in the Official Gazette, add to the First Schedule any establishment to which the licence provisions under this Act shall apply, and on any such notification being issued, the First Schedule shall be deemed to be amended accordingly.

(2) Every notification issued under sub-section *(1)* shall be laid, as soon as may be after it is made, before each House of Parliament or the State Legislature, as the case may be.

CHAPTER XVII

MISCELLANEOUS PROVISIONS

General provisions relating to security cameras and CCTVs.

147. *(1)* Subject to the provisions of this Act, every person shall have the right to purchase, install and use security cameras or CCTVs with or without a microphone or similar devices, by whatever name called, in good faith and without any malafide intention for the purposes of security, larger public interest or any other lawful purpose.

(2) Every person who installs a camera shall ensure that any cameras or CCTVs erected with or without microphones are only capturing public areas and that a display board warning about the presence of the camera and microphone if any, shall also erected in its proximity:

Provided that and subject to section 111, no such obligation shall lie on persons who secretly use such cameras for collecting evidence, preventing any crime, proving any illegal act, for any investigation, etc. and where such obligation would adversely impact the purpose for which the cameras are used, in the manner as may be prescribed.

(3) The information on the display board mentioned in sub-section *(2)* shall be written in the local and English language and have a camera sign that shall be clearly visible to ordinary persons.

(4) The privacy of the data generated by the software linked to the cameras and processed remotely by the third-party sensitive service providers, shall be dealt in accordance with the provisions of this Act and the Digital Personal Data Protection Act, 2023 and the rules and regulations made thereunder. 22 of 2023.

(5) The District Bureau under this Act, shall have the power to verify compliance with this section and take necessary action in case of contravention, in the manner as may be prescribed.

Provisions relating to privacy during the use of vehicles.

148. *(1)* Subject to provisions of this Act, every owner of a vehicle shall have the right to purchase, install in their own vehicle and thereby use a location tracker device, security camera and audio recording device by whatever name called; in good faith and without malafide intention for the purpose of

security, anti-theft, ease of journey and transportation, recording evidence of road accidents or any other lawful purpose:

Provided that a warning message, warning light, indicator, sign or symbol, in the prescribed manner, informing about the presence of such device shall be displayed inside or on the vehicle, as the case may be.

(2) In case of public transport vehicles, no device mentioned in sub-section *(1)* shall be installed in the privacy of any passenger.

(3) The vehicle manufacturers may provide in-built facilities for the indicators or warning lights, as mentioned in the proviso to sub-section *(1),* to their vehicles.

(4) The privacy of the data generated by the software linked to the vehicle and processed remotely by the third-party sensitive service providers, shall be dealt in accordance with the provisions of this Act and the Digital Personal Data Protection Act, 2023 and the rules and regulations made thereunder.

22 of 2023.

(5) The District Bureau under this Act shall have the power to verify compliance with this section and take necessary action in case of contravention, in the manner as may be prescribed.

(6) The penalty for any contraventions of this section shall be in such manner as may be prescribed.

Explanation.— For the purpose of this section and section 48, the words "vehicle", "owner" and "manufacturer" shall have the same meaning as ascribed to them in the Motor Vehicles Act, 1988.

59 of 1988.

149. Any person or a public servant who has made a disclosure in good faith regarding offences under this Act shall not be victimised by the initiation of any proceedings or otherwise merely on the ground that such person or a public servant had made a disclosure or rendered assistance in inquiry or investigation under this Act and shall be given adequate protection by the Central or State Government, as the case may be, and may be rewarded by the Bureaus under this Act, in such manner as may be prescribed:

Protection and rewards to whistleblowers.

Provided that the appropriate Government shall ensure that every disclosure shall be made in good faith and the person making the disclosure shall make a personal declaration stating that he reasonably believes that the information disclosed by him and allegation contained therein is substantially true.

150. The Bureaus and Special Court shall, in all cases where they have passed any order under this Act, order that a copy of such order shall be given free of cost to the victims, parties to the case, applicants or appellants, as the case may be.

Bureau and Court to give copies of order free of cost.

151. The Bureaus under this Act shall set up a round the clock quick response system of telephone numbers and email addresses operated manually to expeditiously attend and reply to complaints and queries.

Quick response system.

152. It shall be the duty of every intermediary, including anti-virus and operating system developers and service providers, and other software developers and providers as may be prescribed, to develop and adopt to the extent possible such mechanisms, artificial intelligence and other systems which prevent the dissemination of any voyeuristic material.

Obligation on intermediarie, including anti-virus service providers, etc.

153. *(1)* The appropriate shall endeavour to promote films, literature, drama, art, streaming media and other digital content, which in larger public interest, generate awareness about right to privacy by providing grants, subsidies and other benefits to such production.

Provisions for films, literature, drama, art, streaming media and other digital content.

(2) No producer or publisher of any films, literature, drama, art, streaming media and other digital content shall produce or publish any film or digital content which includes any dramatic scene or message that encourages or glorifies voyeurism.

(3) The National Bureau shall, by itself or on the recommendation of the State Bureau, direct the appropriate governmental authority to censor the content and take appropriate action against the producer or publisher of such content in such case of contravention of sub-section *(2)*.

Protection of action taken in good faith.

154. 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 under this Act or any rule made thereunder.

Act not in derogation of any other law.

155. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have an overriding effect on the provisions of any such law to the extent of the inconsistency.

Monitoring and reporting.

156. *(1)* The National or State Bureau, as the case may be, shall, as soon as practicable after the end of each calendar year, prepare a report on the progress of implementation of the provisions of this Act during that year and forward a copy thereof to the appropriate Government.

(2) Each District Bureau shall, in relation to the establishments and sensitive services providers within their jurisdiction, collect and provide such information to the State Bureau, as the case may be, as is required to enable the State Bureau to prepare the report under this section.

(3) Each report shall state, in respect of the year to which the report relates, all such information as may be prescribed.

(4) The Central Government or the State Government, as the case shall be, may, as soon as practicable after the end of each calendar year, cause a copy of the report of the National or State Bureau, as the case may be, referred to in sub-section *(1)* to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House.

Budget.

157. The National, State and District Bureaus shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year and the revised estimates for the current year, showing the estimated receipts and expenditure of the Bureaus and forward the same to the Central or State Governments, as the case may be.

Accounts and audit.

158. *(1)* The Bureaus under this Act shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed by the National Bureau in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Bureaus shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Bureaus to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the audit of the accounts of the Bureaus shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected

vouchers and other documents and papers and to inspect any of the offices of the Bureaus.

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

Power to remove difficulties.

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

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

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

Bar on jurisdiction of other courts.

160. No court other than the courts empowered by this Act, shall entertain any suit, application or other proceedings in respect of any order made under this Act, and no such order shall be called in question otherwise than by way of an appeal under this Act.

Repeal.

45 of 2023.
21 of 2000.

161. The provisions of section 77, section 78 and words "or intrudes upon the privacy of such woman" in section 79 of the Bharatiya Nyaya Sanhita, 2023, and section 66E of the Information Technology Act, 2000 are hereby repealed.

THE FIRST SCHEDULE

(*See* sections 27, 28, 30 and 49)

ESTABLISHMENTS TO WHICH THE LICENCE PROVISIONS UNDER THIS ACT APPLY

1. Residential Hotels
2. Guest houses
3. Lodges
4. Resorts
5. Apartments open for public use or places of Commercial accommodation
6. Diagnostic centres
7. Hospitals
8. Ayurvedic Panchkarma and other medicinal treatment centres
9. Clothing stores
10. Malls
11. Swimming pools
12. Hostels
13. Dance, Yoga, Aerobics and other classes
14. Gyms
15. Water parks
16. Public Toilets and washrooms
17. Theatres
18. Photo studios with changing rooms
19. Fine arts schools where painting nude artists is a part of the curriculum
20. Places of public amusement
21. Prisons and jails
22. Beauty Parlours
23. Massage Parlours
24. Saloons
25. Marriage halls with accommodation facility
26. Cruise ships with accommodation facility
27. First class AC railway coaches
28. Aeroplane with washroom/toilet facility
29. Sleeper bus, Commercial Vanity Van
30. Religious Ashrams, Dharmashalas and retreat centres with accommodation facility
31. Vastrantar Griha (Changing rooms) on the banks of rivers, especially made for pilgrims
32. Any temporary set-up where voyeurism is likely to take place
33. Any other establishments or entities which provide a changing room or toilets and bathrooms to the public
34. Any other place where voyeurism may take place and includes such other establishment as the Central Government may, by notification in the Official Gazette, notify to be an establishment for the purposes of this Act.

THE SECOND SCHEDULE

[*See* section 2 *(33) (v)*]

LIST OF SENSITIVE SERVICE PROVIDERS THAT MAY VOLUNTARILY APPLY FOR REGISTRATION

Service providers other than an establishment under this Act, who enters into or which have access to the privacy of a person through such services, whether physically or virtually, such as—

1. Service providers which provide local repair services or service centres for smartphones and other digital devices, etc.;
2. Doorstep service providers such as technicians for geysers, air conditioners or computers, electricians, carpenters, civil contractors, plumbers, etc.;
3. Intermediaries;
4. Software service providers; and
5. any other category as may be prescribed.

THE THIRD SCHEDULE

[*See* section 36 *(2)*]

FORMAT OF LICENCE

GOVERNMENT OF STATE

OFFICE OF THE ANTI-VOYEURISM BUREAU OF DISTRICT.

LICENCE

WHEREAS the licencing authority is satisfied that (NAME OF ESTABLISHMENT/ ADDRESS) complies with the Voyeurism (Prevention, Prohibition and Redressal) Act, 2024 and the rules, regulations and standards thereunder, and it is found that the property and premises of this establishment are Privacy protected, Voyeurism-free and Safe for public use on the basis of the inspection carried out by or under the directions of the licencing authority of the Anti-Voyeurism Bureau of District as mentioned in the table below, this licence is granted to the establishment to carry on their registered business. This establishment is hereby authorized to use the "Voyeurism-Free" Standard Mark.

Name of Establishment :-

Address of Establishment :-

Type of premises/ Business activity :-

Unique Identification Licence No. :-

Date of Issue of Licence/Renewal :-

Table – 1

Sr. No.	Date of Inspection	Renewed/ Valid Till Date	Fees paid	Sign and Seal of Licencing Authority
1.				
2.				

CONDITIONS :

1. This Licence is exclusive and non-transferable.

2. This Licence remains valid up to one year from the date of issue/renewal.

3. This Licence is valid subject to regular and surprise inspections carried out by any inspecting authority under the Act, and any malpractices may result in cancellation of the Licence.

4. This Licence shall be displayed at the main entrance or a strategic place within the establishment in clear and visible writing.

5. Any change in the information furnished at the time of filing the application for this Licence shall be intimated to the licencing Authority within a period of thirty days from the date of such change.

6. This Licence shall not indicate the legality or authenticity of the establishment or its business, nor shall it confer legality upon any illegal establishment, business or act.

THE FOURTH SCHEDULE

[*See* section 50 (3)]

Format of Registration Certificate for

Sensitive Service Providers

GOVERNMENT OF INDIA

OFFICE OF THE ANTI-VOYEURISM BUREAU OF INDIA AT DELHI

CERTIFICATE OF REGISTRATION

This is to certify that the sensitive service provider (NAME OF SSP/ADDRESS) has been voluntarily registered with the National Bureau and conforms to the mandatory standards under the Voyeurism (Prevention, Prohibition and Redressal) Act, 2024 and the rules and regulations thereunder, on the basis of the verification carried out by or under the directions of the Registrar of the National Bureau. Therefore, this sensitive service provider is hereby authorized to use the following Standard Mark:

"Voyeurism-free"

Name of SSP :- _____

Address of SSP:- _____

Type of SSP:- ☐ Individual ☐ Body Corporate

Type of services provided:-

☐ Door step service provider

☐ Local repair centre

☐ Intermediaries

☐ Software service providers

☐ Other

Unique Registration No. :- _____

Date of Registration :- _____

Given under my hand on this day of month of year.

Registrar,

Anti-Voyeurism Bureau of India

CONDITIONS:

1. This is only a certificate of voluntary registration and not a licence to run a business.
2. This registration certificate authorises the sensitive service provider to use the "Voyeurism-free" standard mark.
3. This certificate is exclusive and non-transferable.
4. This certificate may be subject to cancellation if the sensitive service provider is found to be violation of the provisions of the Voyeurism (Prevention, Prohibition and Redressal) Act, 2024 and rules and standards thereunder.
5. Any change in the information furnished at the time of filing the application for this certificate shall be intimated to the Registrar within a period of thirty days from the date of such change.

STATEMENT OF OBJECTS AND REASONS

The Right to Privacy is a fundamental right derived under Article 21 of the Constitution of India as interpreted and declared by the Hon'ble Supreme Court of India in case of *K. S. Puttaswamy Vs. Union of India Judgement*. Moreover, the Right to Privacy is internationally recognized as one of the most significant Human Rights as well. However, there is currently no dedicated statute that provides a separate, all-inclusive and comprehensive legal framework for various aspects of privacy, including human body privacy, communication privacy, location privacy and data confidentiality. Right without remedy is worthless. If India enacts such a separate and comprehensive Right to privacy legislation, it will become honoured as one of the first country to do so and set an example for other countries to follow.

Although the term Voyeurism is used in the title of the Bill, the provisions of the bill are not limited to human body privacy. In the proposed Bill, overall breach of Privacy is defined as Voyeurism.

Currently, the Digital Personal Data Protection Act, 2023 provides a framework for processing digital personal data, but it is not an all-inclusive privacy law and this Act has not yet to come into force. The Criminal Law (Amendment) Act, 2013 inserted the offence of voyeurism under Section 354-C of the Indian Penal Code, 1860 after the Nirbhaya rape and murder case in Delhi. The said section provided for punishment to male offenders committing Voyeurism for a period of one to three years on first conviction and three to seven years on subsequent conviction. Before that and even today, Section 66E of the Information Technology Act, 2000 is being used to prosecute offenders of voyeurism committed with the help of digital devices with imprisonment of three years or fine of up to two lakh rupees or both. However, the cases of voyeurism are only on the rise. Even sections 77, 78 and 79 of the Bharatiya Nyaya Sanhita, 2023 (45 of 2023) have multiple limitations and need to be revised to meet the current requirements of society. Hence, all the above existing provisions are inadequate to deal with various aspects of voyeurism and privacy. Overall, there is a need for a separate, comprehensive and exhaustive preventive and remedial legislation on the Right to Privacy.

Today, the rapid technological development has led to easy availability and use of spy and web cameras, CCTVs, smartphones, computers, spying software, high-speed internet and other new instruments in the market at affordable prices and various new methods and *modus operandi* leading to an increase in voyeurism and breach of Privacy cases by unfathomable means. Smartphone and social media users are rapidly increasing. Research has demonstrated that Artificial Intelligence can easily see people through walls using Wi-Fi signals and will lead to potential problems in the near future. The misuse of artificial intelligence and deepfake technology has led to serious privacy concerns. The loss caused to the victim is irreparable due to the continuing nature of the crime of video voyeurism and its dissemination. In view of the foregoing, the following principles and observations underscore the urgent need for a comprehensive legislative framework:

1. To ascertain the duty of the State to value the dignity and privacy of every human being, guarantee full respect for human rights and ought to penalize acts that would destroy the honour and dignity of a person.

2. Currently, there is an absence of a separate, exhaustive preventive and remedial legislation against voyeurism and there exists a lacuna in our existing laws to deal with Voyeurism through digital technology. Moreover, there is an absence of a separate, all-inclusive and comprehensive legal framework on Right to Privacy of human body, communication privacy, location privacy and sensitive personal data confidentiality and related privacy issues.

3. All genders face situations of violation of their privacy, distribution of private material, etc. which may be later used to blackmail them leading to revenge porn, sextortion etc.

4. Voyeurism results in the violation of a person's human right and fundamental right to privacy life under Article 21 of the Constitution of India. The Right to Privacy is a gender-neutral right, and there is a need for a gender-neutral law on Voyeurism and Privacy that protects all genders.

5. There is a need to frame a new, improved and comprehensive definition of Voyeurism which will cover various other aspects of privacy.

6. There is a need to enact a separate and broad legal framework on the right to privacy to protect various aspects of privacy and privacy of human body, communication privacy, location privacy and data confidentiality.

7. There is a need to establish a procedure by law as per conditions stipulated in Article 21 of the Constitution of India for depriving the privacy of a person in exceptional cases and in good faith and also in view of the doctrine of necessity and fair trial.

8. The Voyeurism (Prevention, Prohibition and Redressal) Bill, 2024 is intended to prevent Voyeurism, provide protection against Voyeurism and for the redressal of complaints of Voyeurism and overall breach of privacy and matters connected therewith or incidental thereto. In the bill, overall breach of Privacy is defined as voyeurism. It, inter alia, seeks to:—

(i) set up mechanism to protect human body privacy, communication privacy, location privacy and data confidentiality,

(ii) define the rights of users and consumers seeking of privacy services,

(iii) bifurcate the services provided by establishments and sensitive service providers concerning privacy angles,

(iv) establish specialized Bureaus,

(v) set standards for privacy protections,

(vi) set the Voyeurism-Free standard mark,

(vii) set up mechanism for licenses and certifications,

(viii) establish the licencing authority for Establishments and Registrar for sensitive service providers to certify as Voyeurism-Free, Privacy-Protected and Safe to eliminate the fear in the minds of the users and consumers thereof,

(ix) strike down the copyright of accused and convicted persons over the Voyeuristic material,

(x) prevent use of nonconsensual means Voyeuristic material for publicaphic and commercial purposes,

(xi) set up a takedown mechanism,

(xii) broaden the definition of Voyeurism to make its meaning equal to overall breach of privacy,

(xiii) define new terms emerged out of developments in technology and new modus operandi,

(xiv) set up mechanism to prevents false and misleading claims and offers,

(xv) set up mechanism to prevent cyber voyeurism and cybercrime,

(xvi) set up procedure for protecting privacy rights during search and seizure of a smartphone and computer by the State,

(xvii) protect the privacy rights of vulnerable populations and soft targets including a woman, child, orphan, foreign tourist, person belonging to third gender, blind, person with disability, sex workers etc.,

(xviii) set up procedure for sting operation, as per conditions stipulated in Article 21 of the constitution of India for depriving the privacy of a person in exceptional cases and in good faith and also in view of the doctrine of necessity and fair trial,

(xix) set provisions against sadistic Voyeurism,

(xx) set up a hassle-free administrative mechanism for victims to compensate them,

(xxi) set up preventive and remedial law which will serve justice to all parties rather only punishment to an offender, as loss caused to a sufferer is almost irreparable,

(xxii) protect the privacy rights of accused during inquiry, investigation, arrest and trial as well,

(xxiii) make consumer-centric law as a consumer is considered as a king pin of economy,

(xxiv) boost tourism industry and government revenue,

(xxv) set up Application Programming Interface (API) for online services,

(xxvi) provide provisions for film makers and content creators,

(xxvii) designate a court of sessions to be a Special Court for the trial of Voyeurism and related Privacy offences,

(xxviii) set up a separate and all-inclusive statute on Right to Privacy.

The Bill seeks to achieve the aforesaid objectives.

Hence, this Bill.

SYED NASEER HUSSAIN

FINANCIAL MEMORANDUM

Clause 8 of the Bill seeks to establish an Anti-Voyeurism Bureau of India, to be known as the National Bureau, having jurisdiction extending to the whole of India to exercise the powers conferred upon and assigned to it under this Bill and for its composition as well as its headquarters and other regional offices, as deemed necessary. Clause 10 provides for salaries and allowances of members of the National Bureau. Clause 12 of the Bill seeks to establish Anti-Voyeurism Bureau for each State, to be known as the State Bureau, having jurisdiction extending to the whole of that State to exercise the powers conferred upon and assigned to it under this Bill and its composition as well as its headquarters and other offices, as deemed necessary. Clause 14 provides for salaries and allowances of members of State Bureau. Clause 16 of the Bill seeks to establish Anti-Voyeurism for each district in the States, to be known as the District Bureau, having jurisdiction extending to the whole of that District to exercise the powers conferred upon and assigned to it under this Bill and its composition and well as its headquarters and other offices, as deemed necessary. Clause 17 of the Bill provides for the officers and other employees and staff of the District Bureaus as well the salaries and allowances payable to them and their terms and conditions of service. Clause 144 provides that the Central and State Governments shall provide grants to the Bureaus and accredited NGOs, as may be deemed necessary for carrying out the purposes of this Act.

The Bill, therefore, if enacted, would involve expenditure, both of recurring and non-recurring nature, 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 17 *(4)* of the Bill provides that the State Government shall make rules to provide for the qualifications and experience, method of recruitment, procedure for appointment, expenditure, term of office, salaries and allowances, resignation and removal from office, promotions, and other terms and conditions of the employees of the District Bureau. Clause 51 of the Bill provides that the Ministry of Labour of the Central and State Governments along with the Ministry of Home Affairs of the State Government may, in collaboration with the National and State Bureau, make rules for character verification by Police, framing privacy policy, etc. and frame a code of conduct and ethics for sensitive service providers and the Ministry of Information Technology of the Central and State Governments may, in collaboration with the National and State Bureau, make rules for verification by the cyber security experts, framing of privacy policy, etc. and frame a code of conduct and ethics for sensitive service providers and that the Central and State Governments may make rules for other prescribed categories of sensitive service providers, if any. Clause 71 of the Bill empowers the National and State Bureaus to make regulations, with the previous approval of the Central and State Governments respectively, for carrying out the purposes of this Bill. Clause 145 of the Bill empowers the Central and State Governments to make rules for carrying out the purposes of the Bill. Clause 159 of the Bill empowers the appropriate Government to make such provisions, as may be considered necessary or expedient, to remove any difficulty that may arise in giving effect to any of the provisions of the Bill.

The matters in respect of which rules or regulations or orders may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

XLV

Bill No. VII of 2025

A Bill to provide for the establishment of an Authority to regulate the prices of all medicines and medical devices, including implants and medical equipments, in the country to ensure fair and reasonable pricing, thereby safeguarding the interests of patients, especially the poor and marginalized sections of society, while fostering an ethical and transparent healthcare system and for matters connected therewith or incidental thereto.

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

Short title and commencement.

1. *(1)* This Act may be called the Medicines and Medical Devices (Price Control and Accessibility) Act, 2025.

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

Definitions.

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

(a) "Authority" means the National Pharmaceutical Price Control Authority established under section 3 of this Act;

(b) "Division" means the Monitoring and Enforcement Division established under section 8 of this Act;

(c) "Interim Pharmaceutical Pricing Authority" means the National Pharmaceutical Pricing Authority constituted by the Central Government through Resolution No. 33/7/97 PI, dated 29th August, 1997;

(d) "maximum retail price" means the highest permissible selling price set by the Authority, inclusive of all taxes, beyond which no sale of the medicine or medical device may occur;

(e) "medical device" means any instrument, apparatus, appliance, implant, or other equipment used for the treatment, diagnosis, or monitoring of medical conditions;

(f) "medicine" means any drug or pharmaceutical product available for human consumption for treatment, prevention, or diagnosis of diseases;

(g) "Member" means a Member of the Authority and includes the Member-Secretary and Advisors;

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

(i) 'price control' means the regulatory mechanism through which the price of medicines and medical devices is determined and controlled to prevent arbitrary pricing.

Establishment and incorporation of the National Pharmaceutical Price Control Authority.

3. *(1)* With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, an Authority to be called the National Pharmaceutical Price Control Authority.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold, and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be at New Delhi.

(4) The Authority may establish offices at other places in India.

Composition of the Authority.

4. *(1)* The Authority shall consist of the following Members, namely,–

(a) a Chairperson, to be appointed by the Central Government, who shall hold a status equivalent to that of a Secretary to the Government of India;

(b) such number of whole-time Members, as may be prescribed, having expertise in the fields of pharmaceuticals, economics, or cost accountancy;

(c) a Member Secretary, who shall be a Joint Secretary or Additional Secretary to the Government of India; and

(d) such number of Advisors, not exceeding seven, as may be prescribed:

Provided that each Advisor shall be an officer of the Government of India not below the rank of Joint Director.

(2) The salary and allowances payable to, and other terms and conditions of service of, the Members, other than Member Secretary and Advisors, shall be such as may be prescribed.

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

(4) The terms and other conditions of service of officers and other employees of the Authority appointed under sub-section (3) shall be such as may be prescribed.

Transfer of assets, liabilities, etc., of Interim Pharmaceutical Pricing Authority.

5. On and from the date of establishment of the Authority,—

(a) all the assets and liabilities of the Interim Pharmaceutical Pricing Authority shall stand transferred to, and vested in, the Authority.

Explanation.—The assets of the Interim Pharmaceutical Pricing Authority shall be deemed to include all rights and powers, all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of the Interim Pharmaceutical Pricing Authority and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(b) without prejudice to the provisions of clause (a), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Interim Pharmaceutical Pricing Authority immediately before that day, for or in connection with the purpose of the said Authority, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Authority;

(c) all sums of money due to the Interim Pharmaceutical Pricing Authority immediately before that day shall be deemed to be due to the Authority; and

(d) all suits and other legal proceedings instituted or which could have been instituted by or against the Interim Pharmaceutical Pricing Authority immediately before that day may be continued or may be instituted by or against the Authority.

Functions of the Authority.

6. *(1)* The Authority shall implement and enforce the provisions of the Drugs (Prices Control) Order, 2013 in accordance with the powers delegated to it under the Essential Commodities Act, 1955 and the Drugs and Cosmetics Act, 1940.

10 of 1955.
23 of 1940.

(2) Without prejudice to the generality of the functions referred to in sub-section *(1)*, the Authority may perform all or any of the following functions, namely, to:—

(i) regulate the prices of medicines and medical devices, recognizing their classification as essential commodities under the Essential Commodities Act, 1955, and the Drugs and Cosmetics Act, 1940, and to ensure their affordability and availability to the public;

10 of 1955.
23 of 1940.

(ii) ensure that all medicines, including generic, patented, and over-the-counter drugs, and all medical devices, implants, and equipment used for treatment, diagnosis, or monitoring, are subject to the price control regime established under this Act;

(iii) determine the maximum retail price of medicines and medical devices based on the cost of production, distribution, and a reasonable

profit margin, while taking into account their necessity and affordability for economically disadvantaged sections of society;

(iv) mandate the display of the maximum retail price on the packaging of all medicines and medical devices in the manner prescribed and to ensure transparency and compliance with this requirement;

(v) review, at least annually or as deemed necessary, the prices of medicines and medical devices, and to make adjustments to such prices in view of changes in production costs, raw material availability, or other relevant factors to maintain fairness and accessibility;

(vi) monitor compliance with the price control regime established under this Act by all manufacturers, distributors, and retailers, and to take enforcement actions against violations in the manner prescribed;

(vii) undertake research and analysis on pricing trends, affordability, and availability of medicines and medical devices in the country and to provide recommendations to the Central Government on policy measures to enhance accessibility and affordability of essential medical commodities; and

(viii) perform such other functions as may be assigned to it by the Central Government or as may be necessary to carry out the provisions of this Act.

Responsibility of manufacturers and retailers regarding compliance and transparency.

7. *(1)* Every manufacturer shall ensure that all compliance reporting concerning the production, pricing, and sale of medicines and medical devices is carried out electronically through the system established by the Authority and made accessible to the public *via* the official website of the Authority.

(2) Every retailer, including pharmacies, medical outlets, and healthcare establishments, shall,–

(a) issue a sale invoice for each transaction involving the sale of medicines or medical devices;

(b) upload the sale invoice to the website of the Authority, excluding any patient name or other personally identifiable information, to ensure privacy;

(c) include the name of the prescribing doctor on each invoice to enable the effective monitoring of prescription practices.

(3) The Authority shall ensure that the online compliance system established under sub-section *(1)* is operational and accessible for monitoring the compliance with the maximum retail prices across various retail outlets, thereby preventing arbitrary pricing and minimizing opportunities for corruption.

(4) Every manufacturer shall submit to the Authority the Price-to-Retailer information for each medicine and medical device as part of the compliance reporting requirement, and such information shall be made publicly accessible on the website of the Authority to allow the public to understand the pricing structure and profit margins associated with the maximum retail prices of medicines and medical devices.

Explanation.– For the purpose of this sub-section, 'Price-to-Retailer' shall mean the wholesale price at which a manufacturer sells a medicine or medical device to a retailer.

Monitoring and Enforcement Mechanisms.

8. *(1)* The Authority may, for the effective implementation of the provisions of this Act, establish a Monitoring and Enforcement Division, which shall be vested with such powers and responsibilities as may be prescribed.

(2) The Division shall be responsible for overseeing and ensuring compliance with the pricing regulations and maximum retail price requirements under this Act.

(3) The Division shall conduct regular audits and inspections of manufacturers, distributors, and retailers to ensure their compliance with the provisions of this Act, including the pricing and maximum retail price requirements.

(4) Any manufacturer, distributor, or retailer found in violation of the price control regulations under this Act shall be liable to penalties, which may include the suspension of licenses and imposition of fines, as prescribed under section 9 of this Act.

(5) The Authority may prescribe, by regulations, the composition, powers, and functions of the Division and such other matters as may be necessary for the efficient discharge of its duties under this Act.

Penalty.

9. *(1)* Any manufacturer, distributor, or retailer who contravenes the pricing regulations or maximum retail price requirements under this Act shall be liable to imprisonment for a term which may extend up to three years, or to a fine which may extend up to ten lakh rupees or both.

(2) In the case of repeat violations, the Authority may, in addition to the penalty specified in sub-section *(1)*, revoke the licenses of the manufacturer, distributor, or retailer permanently, thereby prohibiting them from manufacturing, distributing, or selling medicines and medical devices within the country.

Offences by companies.

10. *(1)* Where an offence under this Act 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:

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 purposes of this section—

(a) "company" means a 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.

Grants by the Central Government.

11. (*1*) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Authority by way of grants, such sums of money as it may consider necessary for carrying out the purposes of this Act.

(*2*) The Authority may spend such sums, as it thinks fit, for performing the functions assigned to it under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (*1*).

Accounts and audit.

12. (*1*) The Authority shall, in consultation with the Comptroller and Auditor-General of India, maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner and at such time of each financial year, as may be prescribed.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Authority.

Annual report.

13. The Authority shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

Annual report and audit report to be laid before Parliament.

14. The Central Government shall cause the annual report together with the audit report, to be laid, as soon as may be after the reports are received, before each House of Parliament.

Power to make rules and regulations.

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

(2) The Authority may, with the previous approval of the Central Government, make regulations not inconsistent with this Act and the rules made thereunder for the purpose of giving effect to the provisions of this Act.

(3) 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 both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties.

16. *(1)* If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of such period as may be prescribed from the date of commencement of this Act.

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

Savings.

17. Anything done or any action taken by the Interim Pharmaceutical Pricing Authority and Central Government under the Resolution No. 33/7/97 PI, dated the 29th August, 1997, shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Currently, only around 25 per cent. of medicines in the Indian market are regulated under a price control regime, leaving the remaining 75 per cent, subject to arbitrary pricing by manufacturers. This results in inflated Maximum Retail Prices (MRPs) that significantly burden patients, particularly those from economically disadvantaged backgrounds. Recognizing the essential nature of medicines and medical devices, this Bill is proposed to bring all such products under a fair and reasonable price control regime, ensuring accessibility and affordability for all.

2. Under the Essential Commodities Act, 1955 read with its Schedule and the Drugs and Cosmetics Act, 1940, every medicine and medical device is classified as an essential commodity. This classification imposes a responsibility on the Central Government to ensure their equitable distribution and availability at fair prices. This Bill envisions a comprehensive pricing framework under the supervision of the National Pharmaceutical Pricing Control Authority (NPPCA), to replace the National Pharmaceutical Pricing Authority (NPPA), which is already functioning in the domain of drug pricing, making it a suitable authority to set and enforce MRPs for all medicines and medical devices.

3. The NPPCA, an established statutory regulatory authority, will be tasked with setting MRPs and enforcing fair pricing across all medicines and medical devices. By leveraging the NPPA's expertise and infrastructure, this Bill seeks to streamline price regulation, prevent arbitrary pricing, and curb exploitative practices in the healthcare market. The NPPCA will periodically review and adjust MRPs to reflect changes in production costs and market conditions, ensuring that essential healthcare products remain accessible to all sections of society.

4. To enhance transparency and accessibility, this Bill mandates that all compliance by manufacturers be reported online and displayed on the NPPCA's website. Medical sale outlets and healthcare establishments are also required to issue and upload sale invoices, including the prescribing doctor's name while maintaining patient confidentiality. This online reporting and monitoring system will allow for real-time tracking of pricing practices, supporting regulatory oversight across a vast number of medical outlets and reducing corruption.

5. The objectives of this Bill are to:

(a) establish a comprehensive and equitable price control regime for all medicines and medical devices by utilizing the regulatory authority of the NPPCA;

(b) prevent arbitrary and exploitative pricing practices that place a financial burden on patients, particularly from marginalized sections;

(c) ensure transparency in the pricing structure of essential healthcare commodities, enabling public access to fair pricing information; and

(d) require compliance through online reporting, fostering accountability across the healthcare supply chain.

6. The Medicines and Medical Devices (Price Control and Accessibility) Bill, 2025, will benefit the country by:

(a) ensuring that essential medicines and medical devices are priced fairly, supporting the financial well-being of patients.

(b) protecting economically disadvantaged and marginalized communities from price exploitation in healthcare.

(c) enhancing public trust in the healthcare sector by fostering transparency in pricing.

(d) empowering the NPPCA to monitor, review, and adjust MRPs in alignment with market dynamics and production costs.

Hence, this Bill.

SHAKTISINH GOHIL.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of National Pharmaceutical Pricing Control Authority as a statutory body, including the appointment of the Chairperson and other members, the staff of the Authority, their salaries, and other allowances, as well as the conditions of service of the Chairperson, members, and staff. Clause 11 provides that the Central Government shall make grants of such sums of money to the Authority, as it may consider necessary, to enable it to carry out the purposes of the Bill.

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 empowers the Central Government and the Authority to make rules and regulations respectively to carry out the provisions of this Bill. Clause 16 provides that the Central Government may, make such order or give such direction, as necessary for removing any difficulty to give effect to the provisions of this Bill.

As the rules, regulations, orders or directions will relate to matters of details only, the delegation of legislative power is of a normal character.

XLVI

Bill No. VIII of 2025

A Bill to mandate the use of digital health records for patients in government healthcare establishments, and for public servants, to ensure transparency, improve healthcare efficiency, and build a comprehensive health data ecosystem and for matters connected therewith and incidental thereto.

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

Short title and commencement.

1. *(1)* This Act may be called the Digital Health Records (Mandatory Use) Act, 2025.

(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) "ABHA" or 'ABHA ID' means the Ayushman Bharat Health Account, a unique electronic identifier for a patient, under the Ayushman Bharat Digital Mission administered by the Union Ministry of Health and Family Welfare;

(b) "digital health record" means electronic documentation of a patient's medical history, treatment, diagnostic test results, prescriptions, and such other health related data, as may be prescribed;

(c) "government healthcare establishment" or "healthcare establishment" or "healthcare service provider" means any clinical establishment, as defined under the Clinical Establishments (Registration and Regulation) Act, 2010, owned, controlled, or funded by the Central Government, State Government, or any local authority, and provides healthcare services to the general public; 23 of 2010.

(d) "helpdesk" means a designated service centre within healthcare establishments to assist patients with the creation and use of ABHA accounts;

(e) "patient" means an individual who seeks healthcare facility in a government healthcare establishment on account of a real or perceived illness or for disease prevention or health promotion;

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

(g) "public servant", shall be any person as defined in clause *(28)* of section 2 of the Bharatiya Nyaya Sanhita, 2023 (45 of 2023); and

(h) "telemedicine service" means use of digitally stored information and communication technologies to provide healthcare services, especially in cases where distance is a critical factor.

Mandatory Digital Health Records.

3. *(1)* Every patient at a government healthcare establishment shall be required to create and use an ABHA ID for accessing medical services.

(2) All public servant shall create and maintain their health records digitally through ABHA.

Prohibition of unauthorized use of ABHA ID.

4. No healthcare provider, authority, or entity shall collect, store, or process a patients' ABHA ID or associated digital health records without prior consent of the patient, except as provided under this Act or other applicable laws.

Responsibilities of government healthcare establishments

5. *(1)* Every government healthcare establishment shall:

(a) integrate its systems with the Ayushman Bharat Digital Mission to facilitate the seamless creation and use of ABHA accounts;

(b) facilitate the creation of ABHA IDs for patients at no cost through designated helpdesks; and

(c) undertake regular awareness programs to educate patients about the benefits of digital health records and encourage voluntary adoption.

(2) Every government healthcare establishment shall comply with standards for data security, interoperability, and privacy as prescribed under this Act and other applicable laws.

Rights and Safeguards.

6. *(1)* The digital health records generated or maintained under this Act shall be subject to the provisions of the Personal Data Protection Act, 2023, and other applicable data protection laws.

(2) Every patient shall retain the following rights concerning his digital health records, in such manner as may be prescribed:

(i) the right to access the digital health records, free of charge;

(ii) the right to request corrections to inaccuracies in their health records; and

(iii) the right to seek erasure of their health records or restrict processing, subject to applicable laws.

(3) The Central Government may prescribe additional safeguards to ensure rights of a patient.

Responsibility of Central and State Government.

7. *(1)* The Central Government shall, —

(a) institute a mechanism for monitoring the implementation of the provisions of this Act by such nodal authority, as may be prescribed; and

(b) periodically review global standards and best practices in digital health records and incorporate relevant measures to strengthen the Ayushman Bharat Digital Mission.

(2) The State Governments shall, —

(a) collaborate with the nodal authority of the Central Government to ensure seamless integration of the Ayushman Bharat Digital Mission with healthcare service providers under the State Government;

(b) establish state-level help desks to assist patients in creating and managing ABHA IDs; and

(c) ensure that all healthcare service provides under State Government comply with the provisions of this Act and provide necessary infrastructure for the generation and use of ABHA IDs.

Incentives for adoption and use of ABHA ID.

8. *(1)* The Central Government may incentivise the adoption and use of ABHA IDs for patients who create and actively use ABHA ID, which may include, but not limited to, —

(a) preference in scheduling appointments in Outpatient Departments (OPD) of government healthcare establishments;

(b) eligibility for discounts or financial assistance for treatments in government healthcare facilities, as may be prescribed; and

(c) access to telemedicine services facilitated by the government, enabling consultations *via* phone or digital platforms.

(2) The continuation of such incentives provided in accordance with sub-section *(1)* shall be subject to active usage of the ABHA account.

Provisions for User-Friendliness.

9. *(1)* Every healthcare establishment, —

(a) shall make efforts to simplify the process of creating ABHA accounts, particularly for patients unfamiliar with digital systems; and

(b) may use Artificial Intelligence (AI)-driven analytics to provide personalized healthcare insights and improve treatment accuracy.

(2) The Central Government shall make efforts to integrate ABHA usage with existing healthcare schemes such as Pradhan Mantri Jan Arogya Yojana (PM-JAY) and Employees' State Insurance Scheme (ESI) for seamless benefits.

Digital Health Records and Telemedicine.

10. *(1)* The digital health records shall serve as the foundation for telemedicine services, enabling healthcare service providers to access patient histories, diagnostic reports, and treatment plans remotely.

(2) Every Government healthcare establishment and telemedicine service provider shall integrate with the Ayushman Bharat Digital Mission to provide real-time access to patient health records for consultations.

Central Government to provide funds.

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

Penalty.

12. Whoever contravenes any provision of this Act shall be liable to such penalties as specified under section 40 and section 45 of the Clinical Establishments (Registration and Regulation) Act, 2010. 23 of 2010.

Act not in derogation 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 and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

Power to make rules.

14. *(1)* The Central Government may, by notification in the Official Gazette, make rules for the proper implementation of the provisions of this Act.

(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

The objectives of the provisions of this Bill are the following:

1. *Enhancement of Healthcare Quality:* Access to comprehensive health records improves diagnosis and treatment.

2. *Promotion of Efficiency:* Digitalization reduces redundancies and administrative burdens.

3. *Empowerment of Patients:* Patients can make informed decisions about their health.

4. *Public Health Insights:* Aggregated, anonymized data aids disease monitoring and policy formulation.

5. *Alignment with Global Standards:* Ensures India's healthcare system is on par with developed nations.

6. *Incentives to Drive Adoption:* Encouraging adoption through priority services and financial assistance.

7. *Integration of Telemedicine with Digital Health Records*: Telemedicine services have been recognized as a critical tool in improving access to healthcare, especially in rural and remote areas.

Drawing inspiration from countries like Australia, where digital health records are seamlessly integrated into telehealth systems, India can significantly improve healthcare delivery through this model. By linking digital health records to telemedicine, it can be ensured that patients receive consistent, efficient, and high-quality care regardless of location.

Hence, this Bill.

SHAKTISINH GOHIL.

FINANCIAL MEMORANDUM

Clause 11 of the Bill provides that Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds to the State Governments, from time to time, for carrying out the purposes of this Act.

Thus, the Bill, if enacted will involve expenditure from the Consolidated Fund of India of an annual recurring expenditure of the estimated amount of rupees two hundred crore and a non-recurring expenditure of about rupees one hundred crore.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purpose of this Bill. As the rules relate to the matters of details only the delegation of the legislative power is of a normal character.

XLVII

Bill No. VI of 2025

A Bill to provide a framework for promoting sustainable fashion practices in the country, upholding environmental and social justice, and to establish a framework for transitioning the fashion industry towards a circular economy, and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. *(1)* This Act may be called the Sustainable Fashion (Promotion and Regulation) Act, 2025. 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) "circular economy" means an economic system aimed at minimizing waste and making the most of resources through recycling, upcycling, and sustainable production practices;

(b) "Commission" means the Sustainable Fashion Commission of India established under section 3 of this Act;

(c) "fashion" includes a popular trend or a lifestyle, specially in styles of dress and ornament or manners of behaviour or the business of creating, promoting or studying styles in vogue or the designing, production and marketing of new styles of goods such as, clothing, accessories, craft and cosmetics; and the words "fashion industry" with their grammatical variations and cognate expressions, shall be construed accordingly;

(d) "Green Certification" means an official recognition awarded to fashion businesses that meet prescribed environmental and social standards;

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

(f) "sustainable fashion" means such practices in the fashion industry that reduce environmental harm and uphold social justice, as may be prescribed.

CHAPTER II

SUSTAINABLE FASHION COMMISSION OF INDIA

Constitution of the Sustainable Fashion Commission of India.

3. ***(1)*** **The Central Government shall, within one year from the date of commencement of this Act, by notification in the Official Gazette, constitute, a body to be known as the Sustainable Fashion Commission of India, which shall be responsible for carrying out the functions assigned under this Act.**

(2) **The Commission shall have its head office in Delhi and may, with the prior approval of the Central Government, establish regional offices at other locations across India to enhance its reach and effectiveness.**

(3) **The Commission shall be a body corporate, with perpetual succession and a common seal, empowered to acquire, hold, and dispose of property (both movable and immovable), enter into contracts, and initiate or respond to legal proceedings in its corporate name.**

Composition of the Commission.

4. *(1)* The Commission shall consist of the following:

(i) **a Chairperson, who shall be a person having not less than ten years of experience in sustainable fashion, to be appointed by the Central Government in such manner as may be prescribed;**

(ii) **not exceeding three Members, who shall be persons having at least seven years of practical experience in fields such as sustainable fashion, textile innovation, or environmental management, to be appointed by the Central Government in such manner as may be prescribed;**

(iii) **eight *ex-officio* Members, to be nominated by the Central Government, one each from the following Union Ministries:**

(a) **Ministry of Textiles;**

(b) **Ministry of Environment, Forest, and Climate Change;**

(c) **Ministry of Women and Child Development;**

***(d)* Ministry of Commerce and Industry;**

***(e)* Ministry of New and Renewable Energy;**

***(f)* Ministry of Corporate Affairs;**

***(g)* Ministry of Tribal Affairs; and**

***(h)* Ministry of Micro, Small and Medium Enterprises; and**

***(iv)* five non-official members to be appointed by the Central Government from non-governmental organisations, academic institutions, or industry experts having at least five years of specialized knowledge or experience in sustainable fashion.**

***(2)* The salaries, allowances and terms and conditions of service of the Chairperson and Members of the Commission shall be as prescribed by the Central Government.**

(3) The Union Ministry of Textiles shall provide necessary secretarial assistance to the Commission.

Resignation and removal of Chairperson and Members.

5. *(1)* The Chairperson and other Members of the Commission may at any time resign from their office by writing under their hand addressed,—

(a) in the case of the Chairperson, to the Secretary, Union Ministry of Textiles; and

(b) in any other case, to the Chairperson of the Commission.

(2) Notwithstanding anything contained in sub-section *(1)*, the Central Government may remove from the Commission any member who, in its opinion, has—

(a) been adjudged as an insolvent; or

(b) been convicted of an offence which involves moral turpitude; or

(c) become physically or mentally incapable of acting as a member; or

(d) so abused his position as to render his continuance in office detrimental to the public interest; or

(e) acquired such financial or other interest as is likely to prejudicially affect his functions as a Member.

Meetings of the Commission.

6. *(1)* The Commission shall meet at least once every six months at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings, including the quorum at its meetings, as may be prescribed:

Provided if, in the opinion of the Central Government or the Chairperson, any business of an urgent nature is to be transacted, a meeting of the Commission at such time as deemed fit for the aforesaid purpose, may be convened.

(2) The Chairperson shall preside at the meetings of the Commission.

(3) If for any reason the Chairperson is unable to attend any meeting of the Commission, any senior Member of the Commission chosen by the Members present at the meeting shall preside at the meeting.

(4) All questions which come before any meeting of the Commission shall be decided by a majority of votes of the members present and voting and in the event of equality of votes, the Chairperson or, in his absence, the person presiding, shall have and exercise a second or casting vote.

Punishment for default in holding meetings.

7. If any default is made in holding a meeting of the Commission in accordance with sub-section *(1)* of section 6, every officer of the Commission who is in default shall be punishable with a fine which may extend to one lakh rupees and in the case of a continuing default, with a further fine which may extend to five thousand rupees for everyday during which such default continues.

Committees of the Commission.

8. ***(1)*** **The Commission shall constitute a Committee to be known as the Scientific Advisory Committee, in such manner as may be prescribed, to inform and advise the Central Government and the Commission on sustainable fashion trends and on any other matter as deemed fit by the Central Government and the Commission in the form of a report every three months.**

(2) **The Commission shall constitute a Committee to be known as the Sustainable Fashion Advisory Committee, in such manner as may be prescribed, to inform and advise the Central Government and the Commission on sustainable fashion planning in achieving national sustainable fashion targets or any other matter referred to by the Central Government and the Commission.**

(3) **Without prejudice to the provisions of sub-sections *(1)* and *(2)*, the Commission may constitute such number of committees as it deems fit for the efficient discharge of its duties and performance of its functions under this Act, in such manner as may be prescribed.**

(4) **Every Committee constituted under this section shall co-opt such number of persons, who are not the members of the Commission, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the Committee and take part in its proceedings but shall not have the right to vote.**

(5) **The persons co-opted as Members of the Committee under sub-section *(4)* shall be entitled to receive such allowances or fees for attending the meetings of the Committee as may be fixed by the Central Government.**

Functions of the Commission.

9. The Commission shall—

(a) advise the Central Government upon review of the national sustainable fashion target and, if necessary, recommend changes to the target;

(b) advise the Central Government on matters relating to countering the adverse impacts of unsustainable fashion on vulnerable communities and eco-sensitive zones;

(c) conduct periodic reviews of the sustainable fashion plan to meet sustainable fashion targets at the national and international levels;

(d) prepare annual national sustainable fashion risk assessments;

(e) ensure coordination with other Ministries of the Central Government and for purposes connected therewith, to appoint nodal officers in other Ministries to ensure proper coordination between the Commission and the Central Government with the aim of implementing this Act;

(f) **conduct awareness and training programmes for officers and personnel; and**

(g) perform such other functions as may be prescribed, by the Central Government, for carrying out the objectives of this Act.

10. The Central Government may, 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. Grants by Central Government.

11. *(1)* The Commission shall prepare every year, in such form and within such time as may be prescribed, an annual report, giving a full account of its activities during the previous year and copies of the report shall be forwarded to the Central Government. Annual Report.

(2) A copy of the report received under sub-section *(1)* shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER III

NATIONAL SUSTAINABLE FASHION STRATEGY

12. *(1)* The Central Government shall, by notification in the Official Gazette, formulate a National Sustainable Fashion Strategy within six months of the commencement of this Act. National Sustainable Fashion Strategy.

(2) The strategy shall include:

(a) guidelines for adopting sustainable materials and technologies;

(b) manner of conduct of awareness campaigns on sustainable consumption habits; and

(c) recommendations for suitable training programs for workers and designers on sustainable practices.

13. *(1)* The Central Government shall establish a Green Certification scheme for the fashion industry. Green Certification scheme.

(2) The certification criteria shall include:

(a) use of eco-friendly materials;

(b) waste reduction through recycling and upcycling; and

(c) compliance with fair labour standards.

(3) The Central Government may provide that the certified businesses shall receive official recognition and access to advisory services for sustainable practices, in such manner as may be prescribed.

CHAPTER IV

REGULATORY MEASURES

14. The Central Government shall prescribe standards to minimize water pollution, greenhouse gas emissions, and waste generation in the fashion industry. Ecological impact standards.

15. *(1)* Every fashion industry employer shall ensure compliance with labour laws, including fair wages, safe working conditions, and the prohibition of child labour. Fair labour practices.

(2) The Central Government shall conduct regular inspections to ensure compliance of fair labour practices specified in section *(1)*.

16. *(1)* Every fashion business shall adopt measures to manage waste responsibly, including recycling and safe disposal of textile waste. Waste management obligations.

(2) The Central Government shall facilitate partnerships with private entities for the establishment of textile recycling zones in major industrial areas.

CHAPTER V

CIRCULAR ECONOMY INITIATIVES

Promotion of circular economy practices.

17. The Central Government shall encourage businesses to adopt circular economy practices, including:

(a) design of durable and repairable clothing;

(b) use of biodegradable and recycled materials; and

(c) establishment of take-back and recycling programs.

Collaboration for research and development.

18. *(1)* The Central Government shall promote collaboration between industry stakeholders and academic institutions to develop sustainable materials and production methods.

(2) The Central Government shall encourage the fashion industry stakeholders to allocate resources for innovation in a sustainable fashion.

CHAPTER VI

AWARENESS INITIATIVES

Public awareness and education.

19. ***(1)* The Central Government shall conduct nationwide campaigns to educate consumers about sustainable fashion.**

(2) The Central Government shall encourage the educational institutions to include sustainable fashion and circular economy principles in their curriculum.

CHAPTER VII

OFFENCES AND PENALTIES

Penalty.

20. *(1)* Any person who fails to comply with ecological impact standards, fair labour practices, or waste management obligations in contravention of the provisions of this Act shall be punishable with imprisonment which may extend to one year or a fine, amounting to one lakh rupees which may extend to five lakhs rupees, or both.

(2) If any person, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to—

(i) twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence;

(ii) a further fine on daily basis which may extend up to one lakh rupees, where the offence is a continuing one; and

(iii) his licence shall be cancelled.

Whistleblower protection.

21. *(1)* Whosoever reports violations under this Act shall be protected against retaliation.

(2) The Central Government shall establish a confidential mechanism for whistleblower complaints, in such manner as may be prescribed.

Offences by companies.

22. *(1)* Where an offence under this Act is committed by a company, every person who, at the time the offence was committed, was in-charge of the company or was responsible for the conduct of 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:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

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

Explanation.— For the purposes 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.

CHAPTER VIII

MISCELLANEOUS

Power to adjudicate disputes.

23. Any dispute arising from any order or decision made by the Central Government under the provisions of the Act shall lie before the National Green Tribunal within six months from the date on which such a dispute arose.

Bar of jurisdiction.

24. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the National Green Tribunal is empowered by or under this Act to determine, and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Act not in derogation of any other law.

25. 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.

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

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

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

Power to make rules.

27. *(1)* The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made 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 session 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

India has the potential to become a global hub for sustainable fashion. However, the fashion industry significantly impacts environmental degradation and social inequality. Unsustainable fashion practices pose a dual threat, compromising both environmental preservation and social justice. The Bill aims to promote sustainable fashion practices, protect vulnerable groups, and uphold circular economy principles, establishing a comprehensive framework for sustainable fashion in India. Further, it seeks to ensure that the industry's growth aligns with environmental sustainability and social responsibility.

The fashion industry is notorious for its substantial environmental impact, including water pollution, greenhouse gas emissions, and the generation of enormous waste. These unsustainable practices exacerbate social inequalities, disproportionately affecting underprivileged populations who suffer from environmental degradation and poor working conditions. The Bill addresses these critical issues by promoting sustainable production and consumption habits, endorsing circular economy principles, and enforcing stringent regulations to reduce the industry's ecological footprint.

The concept of a circular economy in the fashion industry focuses on eliminating waste through thoughtful design, promoting the long-term use of products and materials, and restoring natural systems. By encouraging practices such as recycling, upcycling, and the use of sustainable materials, the Bill aims to reduce the industry's reliance on finite resources and lessen its environmental impact. This shift towards a circular economy is expected not only to conserve the environment but also to create new business opportunities, drive innovation, and foster economic growth.

In summary, this Bill seeks to transform India's fashion industry by integrating sustainable practices and circular economy principles into its operational framework. In doing so, it will protect the environment, promote social equity, and stimulate economic development, positioning India as a leader in sustainable fashion on the global stage.

Hence, this bill.

SUJEET KUMAR.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of the Sustainable Fashion Commission of India at the national level and clause 4 provides for its composition thereof. Clause 8 provides for constitution of Scientific Advisory Committee and Sustainable Fashion Advisory Committee by the Commission. Clause 9 *inter alia* provides that the Commission shall conduct awareness and training programmes for officers and personnel. Clause 19 provides that the Government shall conduct nationwide campaigns to educate consumers about sustainable fashion.

The Bill, if enacted, would involve both non-recurring and recurring expenditure from the Consolidated Fund of India. However, it is not possible to estimate the exact recurring and non-recurring expenditure at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 27 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The delegation of legislative power is of a normal character.

XLVIII

Bill No. LXXIII of 2024

A Bill to provide for the prevention and control of hate speech on online platforms, to promote digital harmony and responsible online behaviour, to define offences related to online hate speech and provide for penalties thereto, to create a regulatory framework for online platforms, and to provide 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

Short title and commencement.

1. *(1)* This Act may be called the Online Hate Speech (Prevention) Act, 2024.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Definitions.

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

(a) "complainant" means any person who files a complaint or reports content on an online platform as potential online hate speech;

(b) "content" means any data, information, text, graphics, images, GIFs, audio, video, or other material that can be created, uploaded, shared, or viewed on an online platform;

(c) "digital harmony" refers to a state of respectful and inclusive online interactions free from hate speech, discrimination, and communal disharmony;

(d) "digital literacy" means the knowledge, skills and attitudes that allow individuals and communities to understand and use digital technologies and find, evaluate, and communicate information using online platforms while being both safe and empowered in an increasingly digital world;

(e) "hate speech" means any communication that promotes or incites hatred, discrimination, or violence against an individual or group based on attributes including but not limited to race, religion, caste, ethnic origin, sexual orientation, gender, disability, or language;

(f) "hate speech content" means such content published, propagated or disseminated on online platforms that leads to or aids in the commission of the offence of online hate speech as defined under section 3 of this Act;

(g) "intermediary" will have the same meaning as assigned to it in clause *(w)* of sub-section *(1)* of section 2 of the Information Technology Act, 2000; 21 of 2000.

(h) "online platform" means any website, application, or digital service that allows users to create, upload, share, or view user-generated content, including social media platforms, messaging services, and content-sharing websites;

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

(j) "responsible online behavior" means such ethical and respectful conduct, aimed at fostering positive digital citizenship and creating a safer online environment, exhibited by users when interacting with others and engaging in activities on the internet;

(k) "significant social media intermediary" means a social media intermediary which primarily or solely enables online interaction between two or more users and allows them to create, upload, share, disseminate, modify or access information using its services, having number of registered users above such threshold as may be notified by the Central Government;

(l) "user" means any person, who accesses or uses an online platform; and

(m) "user verification" means the process of confirming a user's identity on an online platform.

CHAPTER II

ONLINE HATE SPEECH

Online Hate Speech.

3. A user who intentionally uses, publishes, presents, produces, plays, provides, distributes or directs the performance of any speech on online platforms that:—

(i) promotes or spreads, propagates or disseminates, provokes or arouses religious enmity and religious sentiment, discrimination, hatred, or violence against a person or group of persons or community; or

(ii) denigrates a person or group of persons by reasons of their real or attributed characteristics or status, which includes religion, race, caste or community, sex, gender identity, sexual orientation, place of birth, national or ethnic origin, language, age, or disability;

shall be guilty of the offence of online hate speech.

Protection of acts done in good faith by a user.

4. No legal proceedings shall be instituted against a user under section 3 for an action done in good faith during the course of engagement in: —

(i) any artistic or creative performance or other form of expression, to the extent that such performance or expression does not advocate hatred or online hate speech; or

(ii) any academic or scientific inquiry; or

(iii) fair and accurate reporting or commentary or critique in the greater public interest.

Punishment for online hate speech by users.

5. *(1)* Whoever commits the offence of online hate speech under this Act shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to fifty thousand rupees, or with both:

Provided that the account of such user on the online platform shall be disabled for such period as may be prescribed.

(2) For second or subsequent offence, the user shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine along with permanent shutdown of the account of such user on the online platform.

CHAPTER III

OBLIGATIONS AND REGULATIONS FOR ONLINE PLATFORMS

Obligations of online platforms.

6. Every online platform shall: —

(a) implement appropriate measures to prevent the spread of online hate speech;

(b) develop and enforce clear community guidelines prohibiting online hate speech, with special consideration for India's diverse cultural and linguistic context;

(c) establish efficient mechanisms for reporting and reviewing potential online hate speech in multiple Indian languages;

(d) remove or disable access to online hate speech content within twenty-four hours of receiving a valid complaint from a complainant;

(e) implement user verification mechanisms to reduce anonymous online hate speech;

(f) provide to the Central Government, in such form and manner, regular quarterly transparency reports on online hate speech incidents and actions taken thereon;

(g) regularly send correction notices to the users in case unintentional and non-provocative online hate speech is propagated on digital platforms;

(h) collaborate with Central Government agencies, local authorities and civil society organizations to promote digital literacy, responsible online behaviour and formulation of a framework for co-regulation.

Appointment of Compliance and Grievance Officers.

7. *(1)* Every significant social media intermediary shall appoint:

(a) a Chief Compliance Officer, who shall be responsible for ensuring compliance with this Act and the rules made thereunder;

(b) a Nodal Contact Person, who shall be responsible for round-the-clock coordination with law enforcement agencies in India; and

(c) a Resident Grievance Officer, who shall be responsible for addressing complaints related to online hate speech on the platform.

(2) The names and contact details of the persons appointed under sub-section *(1)* shall be prominently displayed on the online platforms for information of all users.

Proactive monitoring and AI-based detection.

8. Every significant social media intermediary shall deploy: —

(a) technology-based measures, including automated tools or artificial intelligence, to proactively identify and remove online hate speech content; and

(b) effective machine learning tools in order to develop abilities of the system to restrict the virality and propagation of online hate speech content:

Provided that such measures shall be in consonance and consideration with the interests of free speech and expression, as provided in the Constitution of India.

User education and awareness.

9. *(1)* Online platforms shall conduct regular awareness campaigns about responsible online behaviour and the consequences of engaging in or propagating online hate speech.

(2) Online platforms shall provide to all users easily accessible resources on digital literacy, with special focus on India's diverse culture.

Penalties for online platforms.

10. *(1)* Any online platform that fails to comply with any of the provisions of this Act shall be – punished with a fine which may extend to fifty lakh rupees.

(2) In case of continued non-compliance against a specific number of complaints, as may be notified by the Central Government, an additional fine of ten lakh rupees per day may be imposed until the non-compliance is remedied.

CHAPTER IV

ADJUDICATION OF OFFENCES AND PENALTIES

Adjudicating Authority.

11. ***(1)* The Central Government shall, within a year of commencement of this Act, by notification in the Official Gazette, establish an Adjudicating Authority for the purpose of holding inquiries and adjudging whether any person has committed a contravention of any of the provisions under this Act or of any rule, regulation, direction or order made thereunder which renders him liable to pay penalty or compensation.**

***(2)* The Adjudicating Authority shall consist of a Chairperson and two members, to be appointed by the Central Government, in such manner as may be prescribed:**

Provided that the Chairperson shall be a person who has been a Judge of a High Court:

Provided also that no person shall be appointed as a member of the Adjudicating Authority unless he possesses such experience in the field of Information Technology and legal or judicial experience as may be prescribed by the Central Government.

(3) **The Adjudicating Authority shall, after giving the person referred to in sub-section *(1),* a reasonable opportunity for making representation in the matter and if, on such inquiry, is satisfied that the person has committed the contravention, may impose such penalty or award such compensation as it thinks fit in accordance with the provisions of this Act.**

(4) **The Central Government shall provide such number of officers and staff to the Adjudicating Authority as it may deem fit for carrying out the purposes of this Act:**

Provided that the officers and staff so appointed shall discharge their functions under the general superintendence of the Chairperson of the Adjudicating Authority.

(5) **The salary and allowances payable to, and other terms and conditions of the service of the Chairperson, members, officers and staff of the Adjudicating Authority shall be such as may be prescribed.**

Appellate Tribunal.

12. ***(1)*** **The Central Government shall, within a year of commencement of this Act, by notification in the Official Gazette, establish an Appellate Tribunal to hear appeals against the decisions of the Adjudicating Authority, in such form and manner as may be prescribed.**

(2) **An appeal under this section shall be preferred within a period of ninety days from the date of the judgment, sentence or order issued by the Adjudicating Authority and it shall be in such form and manner and be accompanied by such fee as may be prescribed:**

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) **The Appellate Tribunal shall consist of a Chairperson and not more than two members to be appointed by the Central Government, in such form and manner as may be prescribed:**

Provided that the Chairperson shall be a person who has either been a Chief Justice of a High Court or a Judge of the Supreme Court:

Provided also that no person shall be appointed as a member of the Appellate Tribunal unless he possesses such experience in the field of Information Technology and legal or judicial experience as may be prescribed by the Central Government.

(4) **On receipt of an appeal under sub-section *(2)*, the Appellate Tribunal may, after giving the parties to the appeal, a reasonable opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.**

(5) **The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the Adjudicating Authority.**

(6) **The appeal filed before the Appellate Tribunal under sub-section *(2)* shall be dealt with as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.**

(7) **The Central Government shall provide such number of officers and staff to the Appellate Tribunal as it may deem fit for carrying out the purposes of this Act:**

Provided that the officers and staff so appointed shall discharge their functions under the general superintendence of the Chairperson of the Appellate Tribunal.

***(8)* The salary and allowances payable to, and other terms and conditions of the service of the Chairperson and members and other officers and staff of the Appellate Tribunal shall be such as may be prescribed.**

Adjudicating Authority and Appellate Tribunal to have powers of civil court.

13. The Adjudicating Authority and the Appellate Tribunal shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence or affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for examination of witnesses or documents;

(f) any other matter which may be prescribed.

Appeal against orders of Appellate Tribunal.

14. An appeal against the decision of the Appellate Tribunal shall lie to the Division Bench of a High Court having appropriate jurisdiction, before the confirming, modifying or annulling an order made or notice issued under this Act.

CHAPTER V

REPORTING

Reporting of registered online hate speech and convictions.

15. *(1)* The Adjudicating Authority shall prepare annually in such form and manner as may be prescribed, both national and State-wise data regarding:—

(a) online hate speech cases registered and at their disposal;

(b) persons convicted for the offence of online hate speech and hate crime by the Appellate Tribunal;

and copies thereof shall be forwarded to the Central Government.

(2) The Central Government shall cause the annual report to be laid before each House of Parliament, within a period of one year from the date of publishing of such report.

CHAPTER VI

MISCELLANEOUS

Promotion of digital literacy and digital harmony.

16. The Central Government shall, for the purpose of promoting digital harmony, in collaboration with the State Governments: —

***(a)* conduct online and offline workshops to promote responsible online behavior on online platforms;**

***(b)* provide legal assistance to individuals or users affected by online hate speech - through relevant District Legal Services Authority as created under Legal Services Authority Act, 1987;** 39 of 1987.

***(c)* collaborate with civil society organisations in order to promote advocacy and outreach of this Act and rules and**

regulations made thereunder, effective use of online platforms and legal recourse available to curb online hate speech.

Protection of action taken in good faith and in discharge of official legal duty.

17. No suit, prosecution, or other legal proceeding shall lie against the Central Government, the Adjudicating Authority, or any officer or employee thereof for anything which is done or intended to be done in good faith and in discharge of official legal duty under this Act.

Act to have overriding effect.

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

Power to remove difficulties.

19. 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 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 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

In recent years, India has witnessed an increase in the discrimination and dehumanization of marginalized groups through hate speech. Notably, hate speech is not defined in any current Indian law. While the provisions within the repealed Indian Penal Code, 1860 (IPC), and the provisions of Section 299 and Section 196 under the existing Bharatiya Nyaya Sanhita, 2023 (BNS) and the Information Technology Act, 2000 provide some recourse, they face significant challenges. Section 153A of the repealed IPC criminalized promoting enmity between groups and Section 295A penalized acts intended to outrage religious feelings. Section 196 of BNS provides punishment for promoting enmity between different groups on the grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony. Section 299 provides punishment for deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs. Additionally, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, issued under the Information Technology Act, 2000 impose obligations on social media platforms to proactively reduce hate speech, misinformation, and other harmful content. India is also bound by its international obligations under article 20(2) of the International Covenant on Civil and Political Rights, 1966, to prohibit hate speech.

Hate speech is particularly concerning as it creates a hostile environment that alienates victims, depriving them of opportunities and autonomy; it undermines victims' dignity and self-worth; and it entrenches societal stereotypes, leading to inequality and subordination. Social media platforms, with their vast reach and algorithmic amplification, have become breeding grounds for hate speech, exacerbating existing societal divisions and tensions.

Accordingly, to effectively prevent and control hate speech on online platforms, and to promote digital harmony and responsible online behaviour, this Bill proposes to:—

(a) define offences related to online hate speech and provides penalties for such offences;

(b) establish a regulatory framework for online platforms to prevent the spread of hate speech;

(c) mandate online platforms to develop and enforce community guidelines prohibiting hate speech, with special consideration for India's diverse cultural and linguistic context;

(d) require online platforms to implement user verification mechanisms to reduce anonymous hate speech and to provide regular transparency reports on hate speech incidents and actions taken;

(e) ensure that online platforms establish efficient mechanisms for reporting and reviewing potential hate speech in multiple Indian languages, and mandates the removal or disabling of access to content determined to be hate speech within 24 hours of receiving a valid complaint;

(f) oblige significant social media intermediary to appoint a Chief Compliance Officer, a Nodal Contact Person for coordination with law enforcement agencies, and a Resident Grievance Officer to address complaints related to hate speech;

(g) mandate significant social media intermediaries to deploy technology-based measures, including automated tools or artificial intelligence, to proactively identify and remove hate speech content, balancing the interests of free speech and expression;

(h) require online platforms to conduct regular awareness campaigns about responsible online behaviour and the consequences of engaging in hate speech, providing easily accessible resources on digital literacy;

(i) establish penalties for non-compliance by online platforms, including fines that may extend to fifty lakh rupees and additional fines for continued non-compliance;

(j) provide penalties for individual users who create or share hate speech content, including imprisonment and fines, with harsher penalties for repeat offenders;

(k) create an Adjudicating Authority, consisting of a Chairperson and two members appointed by the Central Government, to hold inquiries under this Act;

(l) establish an Appellate Tribunal to hear appeals against the decisions of the Adjudicating Authority;

(m) grant the Central Government the power to make rules for carrying out the provisions of this Act and protect actions taken in good faith under this Act from legal proceedings.

(n) to foster digital harmony and responsible use of social media and digital platforms and provides that the Central Government will collaborate and work closely with relevant stakeholders.

This Bill aims to embody the principles of '*Sarva Dharma Sadhbhavana*' as outlined in the Fundamental Rights, ensuring equal dignity for individuals and communities. As citizens of this great nation, we share the responsibility to uphold ethical values of harmony, respect, and fraternity. Consequently, the Bill proposes a co-regulation-based ethical digital framework to encourage responsible behaviour by both users and online platforms.

Hence, this Bill.

VIKRAMJIT SINGH SAHNEY

FINANCIAL MEMORANDUM

Clause 11 of the Bill proposes to establish an Adjudicating Authority for holding inquiries and adjudging whether there has been any contravention of the provisions of the Bill and provides for appointment of Chairperson, members, officers and staff therein and salary and allowances payable thereto. Clause 12 proposes to establish an Appellate Tribunal to hear appeals against the decisions of the Adjudicating Authority and provides for appointment of a Chairperson, members and other officers and staff therein and salary and allowances payable thereto. Clause 16 provides for steps to be taken by the Central Government for promotion of digital literacy and digital harmony.

The Bill, therefore, if enacted, will involve, both non-recurring and recurring expenditure from the Consolidated Fund of India, amounting to rupees ten crore per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 19 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 20 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.

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

XLIX

Bill No. III of 2025

A Bill to provide for the prevention and control of the spread of Viral Hepatitis and for the protection of human rights of persons affected by the said virus and for matters connected therewith or incidental thereto.

WHEREAS the spread of Viral Hepatitis is a matter of grave concern to all and there is an urgent need for the prevention and control of said virus;

AND WHEREAS there is a need to protect and secure the human rights of persons who are Viral Hepatitis-positive, affected by Viral Hepatitis and vulnerable to the said virus;

AND WHEREAS there is a necessity for effective care, support and treatment for Viral Hepatitis-positives;

AND WHEREAS there is a need to protect the rights of healthcare providers and other persons in relation to Viral Hepatitis;

AND WHEREAS India is committed to combating the disease in line with the Resolution at the 69th World Health Assembly on Viral Hepatitis;

AND WHEREAS the Republic of India, being a signatory to the aforesaid Resolution, it is expedient to give effect to the said Resolution.

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

CHAPTER I

PRELIMINARY

Short title and commencement.

1. *(1)* This Act may be called the Viral Hepatitis (Prevention and Control) Act, 2025.

(2) It shall come into force on such date as the Government of India 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 all other cases, the Central Government;

(b) "capacity to consent" means the ability of an individual, determined on an objective basis, to understand and appreciate the nature and consequences of a proposed action and to make an informed decision concerning such action;

(c) "discrimination" means any act or omission which directly or indirectly, expressly or by effect, immediately or over a period of time,—

(i) imposes any burden, obligation, liability, disability or disadvantage on any person or category of persons, based on one or more Viral Hepatitis-related grounds; or

(ii) denies or withholds any benefit, opportunity or advantage from any person or category of persons, based on one or more Viral Hepatitis-related grounds, and the expression "discriminate" to be construed accordingly.

Explanation 1.—For the purposes of this clause, Viral Hepatitis-related grounds include—

(i) being a Viral Hepatitis-positive person;

(ii) ordinarily living, residing or cohabiting with a person who is Viral Hepatitis-positive person;

(iii) ordinarily lived, resided or cohabited with a person who was Viral Hepatitis-positive.

Explanation 2.—For the removal of doubts, it is hereby clarified that adoption of medically advised safeguards and precautions to minimise the risk of infection shall not amount to discrimination;

(d) "domestic relationship" means a relationship as defined under clause *(f)* of section 2 of the Protection of Women from Domestic Violence Act, 2005; 43 of 2005.

(e) "establishment" means a body corporate or cooperative society or any organisation or institution or two or more persons jointly carrying out a systematic activity for a period of twelve months or more at one or more places for consideration or otherwise, for the production, supply or distribution of goods or services;

(f) "guidelines" means any statement or any other document issued by the appropriate Government indicating policy or procedure or course of action relating to Viral Hepatitis to be followed by the Government, governmental and non-governmental organisations and establishments and individuals dealing with prevention, control and treatment of Viral Hepatitis;

(g) "healthcare provider" means any individual whose vocation or profession is directly or indirectly related to the maintenance of the health of another individual and includes any physician, nurse, paramedic, psychologist, counsellor or other individual providing medical, nursing, psychological or other healthcare services including Viral Hepatitis prevention and treatment services;

(h) "hepatitis viruses" includes all types of hepatitis viruses - types A, B, C, D, E, and possibly G, that primarily attack the liver in human beings;

(i) "informed consent" means consent given by any individual or his representative specific to a proposed intervention without any coercion, undue influence, fraud, mistake or misrepresentation and such consent is obtained after informing such individual or his representative, as the case may be, such information, as specified in the guidelines, relating to risks and benefits of, and alternatives to, the proposed intervention in such language and in such manner as understood by that individual or his representative, as the case may be;

(j) "notification" means a notification published in the Official Gazette;

(k) "partner" means a spouse, *de facto* spouse or a person with whom another person has a relationship in the nature of marriage;

(l) "person" includes an individual, a Hindu Undivided Family, a company, a firm, an association of persons or a body of individuals, whether incorporated or not, any corporation established by or under any Central or State Act or any company including a Government company incorporated under the Companies Act, 2013, any Limited Liability Partnership under the Limited Liability Partnership Act, 2008, any body corporate incorporated by or under the laws of a country outside India, a co-operative society registered under any law relating to co-operative societies, a local authority, and every other artificial juridical person;

18 of 2013.

6 of 2009.

(m) "prescribed" means prescribed by rules made by the appropriate Government, as the case may be;

(n) "protected person" means a person who is—

(i) Viral Hepatitis-Positive; or

(ii) ordinarily living, residing or cohabiting with a person who is Viral Hepatitis-positive person; or

(iii) ordinarily lived, resided or cohabited with a person who was Viral Hepatitis - positive;

(o) "reasonable accommodation" means minor adjustments to a job or work that enables a Viral Hepatitis-positive person who is otherwise qualified to enjoy equal benefits or to perform the essential functions of the job or work, as the case may be;

(p) "relative", with reference to the protected person, means—

(i) spouse of the protected person;

(ii) parents of the protected person;

(iii) brother or sister of the protected person;

(iv) brother or sister of the spouse of the protected person;

(v) brother or sister of either of the parents of the protected person;

(vi) in the absence of any of the relatives mentioned at sub-clauses (*i*) to (*v*), any lineal ascendant or descendant of the protected person;

(vii) in the absence of any of the relatives mentioned at sub clauses (*i*) to (*vi*), any lineal ascendant or descendant of the spouse of the protected person;

(q) "significant risk" means—

(i) the presence of significant-risk body substances;

(ii) a circumstance which constitutes a significant risk for transmitting or contracting Viral Hepatitis infection; or

(iii) the presence of an infectious source and an uninfected person.

Explanation.—For the purpose of this clause,—

(i) "significant-risk body substances" are blood, blood products, semen, vaginal secretions, breast milk, tissue and the body fluids, namely, cerebrospinal, amniotic, peritoneal, synovial, pericardial and pleural;

(ii) "circumstances which constitute significant-risk for transmitting or contracting Viral Hepatitis infection" include infectious body fluids, such as blood, vaginal secretions, or semen, containing the Hepatitis B virus (HBV):

Provided that "significant-risk" shall not include exposure to urine, faeces, sputum, nasal secretions, saliva, sweat, tears or vomit that does not contain blood that is visible to the naked eye;

(r) "Universal Precautions" means control measures that prevent exposure to or reduce, the risk of transmission of pathogenic agents (including Hepatitis virus) and include education, training, personal protective equipment such as gloves, gowns and masks, hand washing, and employing safe work practices;

(s) "viral hepatitis" means an infection afflicted by the hepatitis viruses that causes liver inflammation and damage;

(t) "Viral Hepatitis-affected person" means an individual who is Viral Hepatitis -positive or whose partner (with whom such individual normally resides) is Viral Hepatitis -positive or has lost a partner (with whom such individual resided) due to Viral Hepatitis;

(u) "Viral Hepatitis-positive person" means a person whose Viral Hepatitis test has been confirmed positive;

(v) "Viral Hepatitis-related information" means any information relating to the Viral Hepatitis status of a person and includes—

(i) information relating to the undertaking performing the Viral Hepatitis test or the result of a Viral Hepatitis test;

(ii) information relating to the care, support or treatment of that person;

(iii) information which may identify that person; and

(iv) any other information concerning that person, which is collected, received, accessed or recorded in connection with a Viral Hepatitis test, Viral Hepatitis treatment or Viral Hepatitis - related research or the Viral Hepatitis status of that person;

(w) "Viral Hepatitis test" means a test to determine the presence of an antibody or antigen of Viral Hepatitis.

CHAPTER II

PROHIBITION OF CERTAIN ACTS

Prohibition of discrimination.

3. No person shall discriminate against the protected person on any ground including any of the following, namely:—

(a) the denial of, or termination from, employment or occupation, unless, in the case of termination, the person, who is otherwise qualified, is furnished with—

(i) a copy of the written assessment of a qualified and independent healthcare provider competent to do so that such protected person poses a significant risk of transmission of Viral Hepatitis to other person in the workplace, or is unfit to perform the duties of the job; and

(ii) a copy of a written statement by the employer stating the nature and extent of administrative or financial hardship for not providing him reasonable accommodation;

(b) the unfair treatment in, or in relation to, employment or occupation;

(c) the denial or discontinuation of, or, unfair treatment in, healthcare services;

(d) the denial or discontinuation of, or unfair treatment in, educational, establishments and services thereof;

(e) the denial or discontinuation of, or unfair treatment with regard to, access to, or provision or enjoyment or use of any goods, accommodation, service, facility, benefit, privilege or opportunity dedicated to the use of the general public or customarily available to the public, whether or not for a fee, including shops, public restaurants, hotels and places of public entertainment or the use of wells, tanks, bathing ghats, roads, burial grounds or funeral ceremonies and places of public resort;

(f) the denial, or, discontinuation of, or unfair treatment with regard to, the right of movement;

(g) the denial or discontinuation of, or, unfair treatment with regard to, the right to reside, purchase, rent, or otherwise occupy any property;

(h) the denial or discontinuation of, or, unfair treatment in, the opportunity to stand for, or, hold public or private office;

(i) the denial of access to, removal from, or unfair treatment in, Government or private establishment in whose care or custody a person may be;

(j) the denial of, or unfair treatment in, the provision of insurance unless supported by actuarial studies;

(k) the isolation or segregation of a protected person;

(l) Viral Hepatitis testing as a pre-requisite for obtaining employment, or accessing healthcare services or education or, for the continuation of the same or, for accessing or using any other service or facility:

Provided that, in case of failure to furnish the written assessment under sub-clause *(i)* of clause *(a)*, it shall be presumed that there is no significant risk and that the person is fit to perform the duties of the job, as the case may be, and in case of the failure to furnish the written statement under sub-clause *(ii)* of that clause, it shall be presumed that there is no such undue administrative or financial hardship.

Prohibition of certain acts.

4. No person shall, by words, either spoken or written, publish, propagate, advocate or communicate by signs or by visible representation or otherwise the feelings of hatred against any protected persons or group of protected persons in general or specifically or disseminate, broadcast or display any information, advertisement or notice, which may reasonably be construed to demonstrate an intention to propagate hatred or which is likely to expose protected persons to hatred, discrimination or physical violence.

CHAPTER III

INFORMED CONSENT

Informed Consent for undertaking Viral Hepatitis test or treatment.

5. *(1)* Subject to the provisions of this Act,—

(a) no Viral Hepatitis test shall be undertaken or performed upon any person; or

(b) no protected person shall be subject to medical treatment, medical interventions or research,

except with the informed consent of such person or his representative and in such manner, as may be specified in the guidelines.

(2) The informed consent for the Viral Hepatitis test shall include pre-test and post-test counselling to the person being tested or such person's representative in the manner as may be specified in the guidelines.

Informed consent not required for conducting Viral Hepatitis tests in certain cases.

6. The informed consent for conducting a Viral Hepatitis test shall not be required—

(a) where a court determines, by an order that the carrying out of the Viral Hepatitis test of any person either as part of a medical examination or otherwise, is necessary for the determination of issues in the matter before it;

(b) for procuring, processing, distribution or use of a human body or any part thereof including tissues, blood, semen or other body fluids for use in medical research or therapy:

Provided that where the test results are requested by a donor prior to donation, the donor shall be referred to a counselling and testing centre and such donor shall not be entitled to the results of the test unless he has received post-test counselling from such centre;

(c) for epidemiological or surveillance purposes where the Viral Hepatitis test is anonymous and is not for the purpose of determining the Viral Hepatitis status of a person:

Provided that persons who are subjects of such epidemiological or surveillance studies shall be informed of the purposes of such studies; and

(d) for screening purposes in any licensed blood bank.

Guideline for testing centres, etc.

7. No Viral Hepatitis test shall be conducted or performed by any testing or diagnostic centre or pathology laboratory or blood bank unless such centre or laboratory or blood bank follows the guidelines laid down for such test.

CHAPTER IV

DISCLOSURE OF VIRAL HEPATITIS STATUS

Disclosure of Viral Hepatitis Status.

8. *(1)* Notwithstanding anything contained in any other law for the time being in force,—

(i) no person shall be compelled to disclose his Viral Hepatitis status except by an order of the court that the disclosure of such information is necessary in the interest of justice for the determination of issues in the matter before it;

(ii) no person shall disclose or be compelled to disclose the Viral Hepatitis status or any other private information of another person imparted in confidence or in a relationship of a fiduciary nature, except with the informed consent of that other person or a representative of such another person obtained in the manner as specified in section 5, as the case may be, and the fact of such consent has been recorded in writing by the person making such disclosure:

Provided that, in case of a relationship of a fiduciary nature, informed consent shall be recorded in writing.

(2) The informed consent for disclosure of Viral Hepatitis-related information under clause *(ii)* of sub-section *(1)* is not required where the disclosure is made—

(a) by a healthcare provider to another healthcare provider who is involved in the care, treatment or counselling of such person, when such disclosure is necessary to provide care or treatment to that person;

(b) by an order of a court that the disclosure of such information is necessary in the interest of justice for the determination of issues and in the matter before it;

(c) in suits or legal proceedings between persons, where the disclosure of such information is necessary in filing suits or legal proceedings or for instructing their counsel;

(d) as required under the provisions of section 9;

(e) if it relates to statistical or other information of a person that could not reasonably be expected to lead to the identification of that person; and

(f) to the officers of the Central Government or the State Government, as the case may be, for the purposes of monitoring, evaluation or supervision.

Disclosure of Viral Hepatitis-positive status to partner of Viral Hepatitis-positive person.

9. *(1)* No healthcare provider, except a physician or a counsellor, shall disclose the Viral Hepatitis -positive status of a person to his or her partner.

(2) A healthcare provider, who is a physician or counsellor, may disclose the Viral Hepatitis - positive status of a person under his direct care to his or her partner, if such healthcare provider—

(a) reasonably believes that the partner is at a significant risk of transmission of Viral Hepatitis from such a person; and

(b) such Viral Hepatitis-positive person has been counselled to inform such partner; and

(c) is satisfied that the Viral Hepatitis-positive person will not inform such partner; and

(d) has informed the Viral Hepatitis-positive person of the intention to disclose the Viral Hepatitis - positive status to such partner:

Provided that disclosure under this sub-section to the partner shall be made in person after counselling:

Provided further that such healthcare provider shall have no obligation to identify or locate the partner of a Viral Hepatitis - positive person:

Provided also that such healthcare provider shall not inform the partner of a woman where there is a reasonable apprehension that such information may result in violence, abandonment or actions which may have a severe negative effect on the physical or mental health or safety of such woman, her children, her relatives or someone who is close to her.

(3) The healthcare provider under sub-section *(1)* shall not be liable for any criminal or civil action for any disclosure or non-disclosure of confidential Viral Hepatitis-related information made to a partner under this section.

Duty to prevent transmission of Viral Hepatitis.

10. Every person, who is Viral Hepatitis-positive and has been counselled in accordance with the guidelines issued or is aware of the nature of Viral Hepatitis and its transmission, shall take all reasonable precautions to prevent the transmission of Viral Hepatitis to other persons which may include adopting strategies for the reduction of risk or informing in advance his Viral Hepatitis status before any sexual contact with any person or with whom needles are shared with:

Provided that the provisions of this section shall not be applicable to prevent transmission through sexual contact in the case of a woman, where there is a reasonable apprehension that such information may result in violence, abandonment or actions which may have a severe negative effect on the physical or mental health or safety of such woman, her children, her relatives or someone who is close to her.

CHAPTER V

OBLIGATION OF ESTABLISHMENTS

Confidentiality of data.

11. Every establishment keeping the records of Viral Hepatitis-related information of protected persons shall adopt data protection measures in

accordance with the guidelines to ensure that such information is protected from disclosure.

Explanation.— For the purpose of this section, data protection measures shall include procedures for protecting information from disclosure, procedures for accessing information, provisions for security systems to protect the information stored in any form and mechanisms to ensure accountability and liability of persons in the establishment.

12. The appropriate Government shall notify model Viral Hepatitis Control policy for establishments, in such manner, as may be prescribed. Viral Hepatitis Control policy for establishments.

CHAPTER VI

ANTIVIRAL THERAPY FOR PEOPLE INFECTED WITH VIRAL HEPATITIS

13. **The appropriate Government, as the case may be, shall take all such measures as it deems necessary and expedient for the prevention of the spread of Viral Hepatitis, in accordance with the guidelines.** Government to take measure.

14. ***(1)*** **The measures to be taken by the appropriate Government under section 13 shall include the measures for providing, as far as possible, diagnostic facilities relating to Viral Hepatitis.** Antiviral therapy by appropriate Government.

(2) **The appropriate Government shall issue necessary guidelines in respect of protocols for Viral Hepatitis relating to diagnostic facilities, and Anti-Viral Management which shall be applicable to all persons and shall ensure their wide dissemination.**

CHAPTER VII

WELFARE MEASURES BY THE GOVERNMENT

15. ***(1)*** **The appropriate Government shall take measures to facilitate better access to welfare schemes to persons infected or affected by Viral Hepatitis.** Welfare Measures by the appropriate Government.

(2) **Without prejudice to the provisions of sub-section (*1*), the appropriate Government shall frame schemes to address the needs of all protected persons.**

16. *(1)* The appropriate Government, as the case may be, shall take appropriate steps to protect the property of children affected by Viral Hepatitis for the protection of property of child affected by Viral Hepatitis. Protection of property of children affected by Viral Hepatitis.

(2) The parents or guardians of children affected by Viral Hepatitis, or any person acting to protect their interest, or a child affected by Viral Hepatitis may approach the Child Welfare Committee for the safekeeping and deposit of documents related to the property rights of such child or to make complaints relating to such child being dispossessed or actual dispossession or trespass into such child's house.

Explanation.—For the purpose of this section, "Child Welfare Committee" means a Committee set up under section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015. 2 of 2016.

17. The appropriate Government shall formulate Viral Hepatitis related information, education and communication programmes which are age-appropriate, gender-sensitive, non-stigmatising and non-discriminatory. Promotion of Viral Hepatitis related information, education and communication programmes.

Women and children infected with Viral Hepatitis.

18. *(1)* The appropriate Government shall lay down guidelines for the care, support and treatment of children infected with Viral Hepatitis.

(2) Without prejudice to the generality of the provisions of sub-section (*1*) and notwithstanding anything contained in any other law for the time being in force, the appropriate Government as the case may be, shall take measures to counsel and provide information regarding the outcome of pregnancy and Viral Hepatitis related treatment to the Viral Hepatitis infected women.

(3) No Viral Hepatitis positive woman, who is pregnant, shall be subjected to sterilisation or abortion without obtaining her informed consent.

CHAPTER VIII

SAFE WORKING ENVIRONMENT

Obligation of establishments to provide safe working environment.

19. Every establishment, engaged in healthcare services and every such other establishment where there is a significant risk of occupational exposure to Viral Hepatitis, shall, for the purpose of ensuring a safe working environment—

(i) provide, in accordance with the guidelines—

(a) Universal Precautions to all persons working in such establishment who may be occupationally exposed to Viral Hepatitis; and

(b) training for the use of such Universal Precautions;

(ii) inform and educate all persons working in the establishment of the availability of Universal Precautions.

General responsibility of establishments.

20. *(1)* The provisions of this Chapter shall be applicable to all establishments consisting of one hundred or more persons, whether as an employee or officer or member or director or trustee or manager, as the case may be:

Provided that in the case of healthcare establishments, the provisions of this sub-section shall have the effect as if for the words "one hundred or more", the words "twenty or more" had been substituted.

(2) Every person, who is in charge of an establishment, referred to in sub-section (*1*), for the conduct of the activities of such establishment, shall ensure compliance of the provisions of this Act.

Grievance redressal mechanism.

21. Every establishment referred to in sub-section *(1)* of section 20 shall designate such person, as it deems fit, as the Complaints Officer who shall dispose of complaints of violations of the provisions of this Act in the establishment, in such manner and within such time as may be prescribed.

CHAPTER IX

PROMOTION OF STRATEGIES FOR REDUCTION OF RISK

Strategies for reduction of risk.

22. Notwithstanding anything contained in any other law for the time being in force any strategy or mechanism or technique adopted or implemented for reducing the risk of Viral Hepatitis transmission, or any act pursuant thereto, as carried out by persons, establishments or organisations in the manner as may be specified in the guidelines issued by the appropriate Government shall not be restricted or prohibited in any manner, and shall not amount to a criminal offence or attract civil liability.

Explanation.—For the purpose of this section, strategies for reducing risk of Viral Hepatitis transmission means promoting actions or practices that minimise a person's risk of exposure to Viral Hepatitis or mitigate the adverse impacts related to Viral Hepatitis including—

(i) the provisions of information, education and counselling services relating to prevention of Viral Hepatitis and safe practices;

(ii) the provisions and use of safer sex tools, including condoms;

(iii) drug substitution and drug maintenance; and

(iv) provision of comprehensive injection safety requirements.

Illustrations

(a) A supplies condoms to B who is a sex worker or to C, who is a client of B. Neither A nor B nor C can be held criminally or civilly liable for such actions or be prohibited, impeded, restricted or prevented from implementing or using the strategy.

(b) M carries on an intervention project on Viral Hepatitis and sexual health information, education and counselling for men, who have sex with men, provides safer sex information, material and condoms to N, who has sex with other men. Neither M nor N can be held criminally or civilly liable for such actions or be prohibited, impeded, restricted or prevented from implementing or using the intervention.

(c) X, who undertakes an intervention providing registered needle exchange programme services to injecting drug users, supplies a clean needle to Y, an injecting drug user who exchanges the same for a used needle. Neither X nor Y can be held criminally or civilly liable for such actions or be prohibited, impeded, restricted or prevented from implementing or using the intervention.

(d) D, who carries on an intervention programme providing Opioid Substitution Treatment (OST), administers OST to E, an injecting drug user. Neither D nor E can be held criminally or civilly liable for such actions or be prohibited, impeded, restricted or prevented from implementing or using the intervention.

CHAPTER X

VIRAL HEPATITIS COMPLAINT OFFICER

Appointment of Viral Hepatitis Complaint Officer.

23. ***(1)*** **The appropriate Government shall appoint one or more Viral Hepatitis Complaint Officer—**

(a) **possessing such qualification and experience as may be prescribed, or**

(b) **designate any of its officers not below such rank, as may be prescribed, by that Government, to exercise such powers and discharge such functions, as may be conferred on Viral Hepatitis Complaint Officer under this Act.**

(2) **The terms and conditions of the service of a Viral Hepatitis Complaint Officer appointed under clause (*a*) of sub-section (*1*) shall be such as may be prescribed by the appropriate Government.**

(3) **The Viral Hepatitis Complaint Officer appointed under sub-section (*1*) shall have such jurisdiction in respect of such area or areas as the appropriate Government may, by notification, specify.**

Powers of Viral Hepatitis Complaint Officer.

24. *(1)* The Viral Hepatitis Complaint Officer shall, upon a complaint made by any person, inquire into the violations of the provisions of this Act, in relation to acts of discrimination mentioned in section 3 and providing of healthcare services by any person, in such manner as may be prescribed by the appropriate Government.

(2) The Viral Hepatitis Complaint Officer may require any person to furnish information on such points or matters, as he considers necessary, for inquiring into the matter and any person so required shall be deemed to be legally bound to furnish such information and failure to do so shall be punishable under sections 211 and 212 of the Bharatiya Nyaya Sanhita, 2023. 45 of 2023.

(3) The Viral Hepatitis Complaint Officer shall maintain records in such manner as may be prescribed by the appropriate Government.

Procedure of complaint.

25. The complaints may be made to the Viral Hepatitis Complaint Officer under sub-section (*1*) of section 24 in such manner, as may be prescribed, by the appropriate Government.

Orders of Viral Hepatitis Complaint Officer.

26. The Viral Hepatitis Complaint Officer shall, within a period of thirty days of the receipt of the complaint under sub-section (*1*) of section 24, and after giving an opportunity of being heard to the parties, pass such order, as he deems fit, giving reasons therefor:

Provided that in cases of medical emergency of Viral Hepatitis positive persons, the Viral Hepatitis Complaint Officer shall pass such order as soon as possible, preferably within twenty-four hours of the receipt of the complaint.

Authorities to assist Viral Hepatitis Complaint Officer.

27. All authorities including the civil authorities functioning in the area for which the Officer has been appointed under section 23 shall assist in execution of orders passed by the Viral Hepatitis Complaint Officer.

Report to appropriate Government.

28. The Viral Hepatitis Complaint Officer, after every six months, reports to the appropriate Government, the number and nature of complaints received, the action taken and orders passed in relation to such complaints and such report shall be published on the website of the Viral Hepatitis Complaint Officer.

CHAPTER XI

SPECIAL PROVISIONS

Right of residence.

29. Every protected person shall have the right to reside in the shared household, the right not to be excluded from the shared household or any part of it and the right to enjoy and use the facilities of such shared household in a non-discriminatory manner.

Explanation.—For the purposes of this section, the expression "shared household" means a household where a person lives or at any stage has lived

in a domestic relationship either singly or along with another person and includes such a household, whether owned or tenanted, either jointly or singly, any such household in respect of which either person or both, jointly or singly, have any right, title, interest or equity or a household which may belong to a joint family of which either person is a member, irrespective of whether either person has any right, title or interest in the shared household.

Viral Hepatitis-related information, education and communication before marriage.

30. The appropriate Government shall specify guidelines for the provision of Viral Hepatitis-related information, education and communication before marriage and ensure their wide dissemination.

Persons in care or custody of State.

31. *(1)* Every person who is in the care or custody of the State shall have the right to Viral Hepatitis prevention, counselling, testing and treatment services in accordance with the guidelines issued in this regard.

(2) For the purposes of this section, persons in the care or custody of the State include persons convicted of a crime and serving a sentence, persons awaiting trial, persons detained under preventive detention laws, persons under the care or custody of the State under the Juvenile Justice (Care and Protection of Children) Act, 2015, the Immoral Traffic (Prevention) Act, 1956 or any other law and persons in the care or custody of Government-run homes and shelters.

2 of 2016.

104 of 1956.

Recognition of guardianship of older sibling.

32. Notwithstanding anything contained in any law for the time being in force, a person below the age of eighteen but not below twelve years, who has sufficient maturity of understanding and who is managing the affairs of his family affected by Viral Hepatitis, shall be competent to act as guardian of other sibling below the age of eighteen years for the following purposes, namely: —

(a) admission to educational establishments;

(b) care and protection;

(c) treatment;

(d) operating bank accounts;

(e) managing property; and

(f) any other purpose that may be required to discharge his duties as a guardian.

Explanation.— For the purposes of this section, a family affected by Viral Hepatitis means where both parents and the legal guardian is incapacitated due to Viral Hepatitis-related illness or the legal guardian and parents are unable to discharge their duties in relation to such children.

Living wills for guardianship and testamentary guardianship.

33. *(1)* Notwithstanding anything contained in any law for the time being in force, a parent or legal guardian of a child affected by Viral Hepatitis may appoint, by making a will, an adult person who is a relative or friend, or a person below the age of eighteen years who is the managing member of the family affected by Viral Hepatitis, as referred to in section 33, to act as legal guardian immediately upon incapacity or death of such parent or legal guardian, as the case may be.

(2) Nothing in this section shall divest a parent or legal guardian of their rights, and the guardianship referred to in sub-section *(1)* shall cease to operate upon by the parent or legal guardian regaining their capacity.

(3) Any parent or legal guardian of children affected by Viral Hepatitis may make a will appointing a guardian for care and protection of such children and for the property that such children would inherit or which is bequeathed through the will made by such parent or legal guardian.

CHAPTER XII

SPECIAL PROCEDURE IN COURT

Special Procedure in Court.

34. *(1)* In any legal proceeding in which a protected person is a party or such person is an applicant, the court, on an application by such person or any other person on his behalf may pass, in the interest of justice, any or all of the following orders, namely:—

(a) that the proceeding or any part thereof be conducted by suppressing the identity of the applicant by substituting the name of such person with a pseudonym in the records of the proceedings in such manner as may be prescribed;

(b) that the proceeding or any part thereof may be conducted in camera; and

(c) restraining any person from publishing in any manner any matter leading to the disclosure of the name or status or identity of the applicant.

(2) In any legal proceeding concerning or relating to a Viral Hepatitis -positive person, the court shall take up and dispose of the proceeding on a priority basis.

Maintenance applications.

35. In any maintenance application filed by or on behalf of a protected person under any law for the time being in force, the court shall consider the application for interim maintenance and, in passing any order of maintenance, shall take into account the medical expenses and other Viral Hepatitis -related costs that may be incurred by the applicant.

Sentencing.

36. In passing any order relating to sentencing, the Viral Hepatitis -positive status of the persons in respect of whom such an order is passed shall be a relevant factor to be considered by the court to determine the custodial place where such person shall be transferred to, based on the availability of proper healthcare services at such place.

CHAPTER XIII

PENALTIES

Penalty for contravention.

37. Notwithstanding any action that may be taken under any other law for the time being in force, whoever contravenes the provisions of section 4 shall be punished with imprisonment for a term which shall not be less than three months but which may extend to two years and with fine which may extend to one lakh rupees, or with both.

Penalty for failure to comply with orders of Viral Hepatitis Complaint Officer.

38. Whoever fails to comply with any order given by a Viral Hepatitis Complaint Officer within such time as may be specified in such order, under section 26, shall be liable to pay a fine which may extend to ten thousand rupees and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues.

Penalty for breach of confidentiality in legal proceedings.

39. Notwithstanding any action that may be taken under any law for the time being in force, whoever discloses information regarding the Viral Hepatitis status of a protected person which is obtained by him in the course of, or in relation to, any proceedings before any court, shall be punishable with fine which may extend to one lakh rupees unless such disclosure is pursuant to any order or direction of a court.

Prohibition of victimisation.

40. No person shall subject any other person or persons to any detriment on the ground that such person or persons have taken any of the following actions, namely: —

(a) made complaint under this Act;

(b) brought proceedings under this Act against any person;

(c) furnished any information or produced any document to a person exercising or performing any power or function under this Act; or

(d) appeared as a witness in a proceeding under this Act.

Court to try offences.

41. No court other than the court of a Judicial Magistrate First Class shall take cognizance of an offence under this Act.

Offences to be cognizable and bailable.

42. Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, offences under this Act shall be cognizable and bailable.

46 of 2023.

CHAPTER XIV

MISCELLANEOUS

Act to have overriding effect.

43. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time in force or in any instrument having effect by virtue of any law other than this Act.

Protection of action taken in good faith.

44. No suit, prosecution or other legal proceeding shall lie against the Government Viral Hepatitis Complaint Officer or any member thereof or any officer or other employee or person acting under the direction either of the Government Viral Hepatitis Complaint Officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or guidelines made thereunder or in respect of the publication by or under the authority of the Government Viral Hepatitis Complaint Officer.

Delegation of powers.

45. The appropriate Government, as the case may be, may, by general or special order, direct that any power exercisable by it under this Act shall, in such circumstances and under such conditions, if any, as may be mentioned in the order, be exercisable also by an officer subordinate to that Government or the local authority.

Guidelines.

46. *(1)* The appropriate Government may, by notification, make guidelines consistent with this Act and any rules thereunder, generally to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such guidelines may provide for all or any of the following matters, namely: —

(a) information relating to risk and benefits or alternatives to the proposed intervention under clause *(i)* of section 2;

(b) the manner of obtaining the informed consent under sub-section *(1)* and the manner of pre-test and post-test counselling under sub-section *(2)* of section 5;

(c) guidelines to be followed by a testing or diagnostic centre or pathology laboratory or blood bank for Viral Hepatitis test under section 7;

(d) the manner of taking data protection measures under section 11;

(e) guidelines in respect of protocols for Viral Hepatitis relating to Antiviral Therapy Management under sub-section *(2)* of section 14;

(f) care, support and treatment of children infected with Viral Hepatitis under sub-section *(1)* of section 18;

(g) guidelines for Universal Precautions under section 19;

(h) manner of carrying out the strategy or mechanism or technique for reduction of risk of Viral Hepatitis transmission under section 22;

(i) manner of implementation of a drug substitution, drug maintenance and needle and syringe exchange programme under section 22;

(j) provision of Viral Hepatitis-related information, education and communication before marriage under section 30;

(k) manner of Viral Hepatitis prevention, counselling, testing and treatment of persons in custody under section 31; and

(l) any other matter which ought to be specified in guidelines for the purposes of this Act.

Power of Central Government to make rules.

47. *(1)* The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters, namely:—

(a) manner of notifying model Viral Hepatitis Prevention & Control policy for the establishments under section 12; and

(b) any other matter which may be or ought to be prescribed by the Central Government.

Laying of rules before both Houses of Parliament.

48. 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 session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of State Government to make rules and laying thereof.

49. *(1)* The State Government may, by notification, make rules for carrying out the provisions of this Act and not inconsistent with the rules, if any, made by the Central Government.

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

Power to remove difficulties.

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

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

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

STATEMENT OF OBJECTS AND REASONS

Viral Hepatitis, encompassing a group of infectious diseases classified as Hepatitis A, B, C, D, and E, poses a significant public health challenge in India. The disease is a leading cause of liver-related morbidity and mortality, contributing to chronic liver conditions, cirrhosis, and hepatocellular carcinoma. According to data from the National Viral Hepatitis Control Program (NVHCP), an estimated 40 million people in India are chronically infected with Hepatitis B, while 6 to 12 million are infected with Hepatitis C. These figures represent a substantial portion of the global disease burden, underscoring the urgency of addressing this silent epidemic.

Despite its severity, Viral Hepatitis remains largely underdiagnosed and undertreated in India. The stigma and discrimination faced by individuals living with the disease often act as barriers to timely diagnosis and access to treatment. This societal bias, coupled with a lack of widespread awareness about the disease, perpetuates a cycle of neglect and exclusion, leaving millions vulnerable. Additionally, the economic impact of Viral Hepatitis on families and the healthcare system is profound. The high cost of diagnosis and treatment, particularly for Hepatitis B and C, exacerbates the financial strain on affected individuals, despite the availability of newer and more effective therapies.

India has committed to the Global Health Sector Strategy on Viral Hepatitis adopted at the 69th World Health Assembly, which aims to eliminate Viral Hepatitis as a public health threat by 2030. In line with this commitment, the National Viral Hepatitis Control Program was launched under the National Health Mission in 2018. This program emphasizes preventive measures such as immunization, safe injection practices, and improved sanitation, while also providing free treatment for Hepatitis B and C. However, significant gaps remain in implementation, particularly in ensuring equitable access to care, protecting the rights of those affected, and addressing societal stigma.

This Bill seeks to provide a comprehensive legal framework for the prevention and control of Viral Hepatitis in India while safeguarding the human rights of those affected. It aims to institutionalize mechanisms for prevention, care, and support while ensuring affordable and accessible treatment. The Bill also addresses the rights and protection of healthcare providers working with Viral Hepatitis-positive patients and emphasizes aligning national efforts with global targets. By codifying these measures, the Bill seeks to reinforce India’s commitment to combating Viral Hepatitis and fulfilling its obligations under the World Health Assembly’s strategy. Enacting this legislation will be a decisive step toward reducing the burden of Viral Hepatitis and protecting the health and dignity of affected individuals across the country.

Hence, this Bill.

SUJEET KUMAR.

FINANCIAL MEMORANDUM

The current National Viral Hepatitis Control Program takes care of the concerns expressed in the Bill for prevention and control of Viral Hepatitis.

Clause 13 of the Bill provides that the appropriate Government shall take all such measures as it deems necessary and expedient for the prevention of the spread of Viral Hepatitis. Sub-clause *(1)* of Clause 14 provides that the measures to be taken by the appropriate Government under section 13 shall include the measures for providing, as far as possible, diagnostic facilities relating to Viral Hepatitis.

Clause 15 provides that the appropriate Government shall take measures to facilitate better access to welfare schemes to persons infected or affected by Viral Hepatitis. Clause 23 provides for the appointment of Viral Hepatitis Complaint Officer by appropriate Government.

It is difficult to estimate the provision required for new activities such as number of persons who will be appointed as Viral Hepatitis Complaint Officers by the appropriate Government, new schemes etc. 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 expenditure involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 47 and clause 49 of the Bill empowers the Central Government and the State Government to make rules for carrying out the purposes of the Bill, respectively. Clause 50 of the Bill provides power to the Central Government to remove difficulties, if any. The delegation of legislative power is of a normal character.

P.C. Mody,
Secretary-General.

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