

10th December, 2021

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THE FARM LAWS REPEAL BILL, 2021

(AS PASSED BY THE HOUSES OF PARLIAMENT—

LOK SABHA ON 29TH NOVEMBER, 2021

RAJYA SABHA ON 29TH NOVEMBER, 2021)

ASSENTED TO ON 30 TH NOVEMBER, 2021 ACT NO. 40 OF 2021

Bill No. 143-F of 2021

THE FARM LAWS REPEAL BILL, 2021

(AS PASSED BY THE HOUSES OF PARLIAMENT)

A

BILL

to repeal the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020, the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020, the Essential Commodities (Amendment) Act, 2020 and to amend the Essential Commodities Act, 1955.

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

1. This Act may be called the Farm Laws Repeal Act, 2021.

Short title.

2. The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020, the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 and the Essential Commodities (Amendment) Act, 2020 are hereby repealed.

Repeal of Acts
20 of 2020, 21
of 2020 and 22
of 2020.

Amendment
of Act 10 of
1955.

3. In section 3 of the Essential Commodities Act, 1955, sub-section (IA) shall be omitted.

A

BILL

to repeal the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020, the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020, the Essential Commodities (Amendment) Act, 2020 and to amend the Essential Commodities Act, 1955.

(As passed by the Houses of Parliament)

MGIPMRND—1365RS(S3)—08-12-2021.

Bill No. 144 of 2021

**THE HIGH COURT AND SUPREME COURT JUDGES (SALARIES AND
CONDITIONS OF SERVICE) AMENDMENT BILL, 2021**

A

BILL

*further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and
the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.*

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

CHAPTER I

PRELIMINARY

5 **1.** This Act may be called the High Court and Supreme Court Judges (Salaries and Short title.
Conditions of Service) Amendment Act, 2021.

CHAPTER II

AMENDMENT TO THE HIGH COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1954

28 of 1954. 10 **2.** In section 17B of the High Court Judges (Salaries and Conditions of Service) Amendment of
Act, 1954, the following *Explanation* shall be inserted, namely:— section 17B.

*"Explanation.—For the removal of doubts, it is hereby clarified that any
entitlement for additional quantum of pension or family pension shall be, and shall be
deemed always to have been, from the first day of the month in which the pensioner
or family pensioner completes the age specified in the first column of the scale."*

CHAPTER III

AMENDMENT TO THE SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE)
ACT, 1958

Amendment of
section 16B.

3. In section 16B of the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, the following *Explanation* shall be inserted, namely:—

5 41 of 1958.

*"Explanation.—*For the removal of doubts, it is hereby clarified that any entitlement for additional quantum of pension or family pension shall be, and shall be deemed always to have been, from the first day of the month in which the pensioner or family pensioner completes the age specified in the first column of the scale."

STATEMENT OF OBJECTS AND REASONS

The High Court Judges (Salaries and Conditions of Service) Act, 1954 was enacted to regulate salaries and certain conditions of service of the Judges of High Courts. The Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 was enacted to regulate salaries and certain conditions of service of the Judges of the Supreme Court.

2. *Vide* the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2009, section 17B and section 16B were respectively inserted in the said Acts to provide that every retired Judge or after his death, the family, as the case may be, shall be entitled to an additional quantum of pension or family pension in accordance with the scale specified therein. Accordingly, the additional quantum of pension to retired Judges of the High Court and Supreme Court is being sanctioned on completing the age of 80 years, 85 years, 90 years, 95 years and 100 years, as the case may be.

3. However, in a writ petition filed by a retired High Court Judge, Justice Virendra Dutt Gyani, the Hon'ble High Court of Gauhati *vide* its order dated 15th March, 2018 has held that benefit of additional quantum of pension as per section 17B of the aforesaid High Court Judges Act in the first slab would be available to a retired Judge from the first day of his 80th year.

4. Subsequently, the Hon'ble High Court of Madhya Pradesh also, *vide* its order dated 3rd December, 2020 passed in writ petitions filed by the Association of Retired Judges of Supreme Court and High Court of India, has directed respondent Union of India to construe the word "from" as it appears on the slab under section 16B of the 1958 Act and section 17B of the 1954 Act as the first day of entering the minimum age of the slab (i.e., 80,85,90,95 and 100 years) along with other consequential benefits to the petitioners.

5. The legislative intent behind insertion of section 17B and section 16B respectively in the aforesaid Acts was to provide benefit of additional quantum of pension to a retired Judge from the first day of the month in which he completes the age specified in the first column of the scale and not from the first day of his entering the age specified therein as so interpreted by the High Courts. Therefore, it is proposed to insert an *Explanation* in section 17B of the said High Court Judges Act and in section 16B of the said Supreme Court Judges Act to clarify the intention and to ensure that there is no scope for any other interpretation.

6. The Bill seeks to achieve the above objectives.

KIREN RIJJU.

NEW DELHI;

The 24th November, 2021.

LOK SABHA

A

BILL

further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.

(Shri Kiren Rijju, Minister of Law and Justice)

MGIPMRND—1151LS(S3)—25-11-2021.

Bill No. XXXV of 2021

THE ACADEMIC INTEGRITY BILL, 2021

A

BILL

to promote academic integrity in Higher Educational Institutions in the country and to curb plagiarism by establishing the Central Academic Integrity Authority and for matters connected therewith and incidental thereto.

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

1. (1) This Act may be called the Academic Integrity Act, 2021.
- (2) It extends to the whole of India.
- 5 (3) It shall apply to students, researchers, faculty and staff of all Higher Educational Institutes in the country;
- (4) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent,
application
and
commencement.

Definition.

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

(a) "Academic Misconduct Panel" means the body constituted to investigate allegations of plagiarism as described under section 6 of this Act;

(b) "academic integrity" means intellectual honesty in proposing, performing and reporting any activity, which leads to the creation of intellectual property; 5

(c) "aggrieved party" means any person, whose academic work such as a research paper, manuscript, etc. has been dishonestly taken by a student, researcher or faculty member of an Higher Educational Institute;

(d) "author" includes a student or a faculty or a researcher or staff of Higher Educational Institution who claims to be the creator of the work under consideration; 10

(e) "Authority" means the Central Academic Integrity Authority constituted under section 3 of this Act;

(f) "college" means any institution, whether known as such or by any other name which provides for a course of study for obtaining any qualification from a university and which, in accordance with the rules and regulations of such university, is recognized as competent to provide for such course of study and present students undergoing such course of study for the examination for the award of such qualification; 15

(g) "faculty" refers to a person who is teaching or guiding students enrolled in an Higher Educational Institute in any capacity whatsoever *i.e.* regular, emeritus, *ad-hoc*, guest, temporary, visiting, etc; 20

(h) "Higher Educational Institution" means an institution of learning including a university, an institution deemed to be university, a college, an institution of national importance declared as such by an Act of Parliament, or a constituent unit of such institution, which is imparting, whether through conduct of regular classes or distance education systems, higher education after twelve years of schooling leading to the award of a degree or diploma; 25

(i) "plagiarism" means an act of academic dishonesty and a breach of ethics and involves using someone else's work as one's own and also includes data plagiarism and self plagiarism;

(j) "prescribed" means prescribed by rules made under this Act; 30

(k) "researcher" means a person conducting academic or scientific research in an Higher Educational Institution.

(l) "script" includes research paper, thesis, study, project report, assignment, dissertation and any other such work submitted for assessment or opinion leading to the award of degree or publication in print or electronic media by students or faculty or staff of an Higher Educational Institution, excluding answer scripts submitted in response to a question paper set by a Higher Educational Institution; 35

(m) "student" means a person duly admitted and pursuing a programme of study including a research programme in full time or part-time or distant mode in an Higher Educational Institution; 40

Words and expressions used and not defined in these regulations but defined in the University Grants Commission Act, 1956 shall have the meanings respectively assigned to them in that Act. 3 of 1956.

CHAPTER II

AUTHORITIES UNDER THIS ACT

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be constituted, for the purposes of this Act, an Authority, to be known as the Central Academic Integrity Authority consisting of the following members, namely:—

Central
Academic
Integrity
Authority.

(a) Union Minister of State in the Ministry of Education — Chairperson *ex-officio*;

(b) Union Minister of State in the Ministry of Electronics and Information Technology—Vice-Chairperson *ex-officio*;

(c) Chairperson, University Grants Commission—Vice-Chairperson *ex-officio*;

(d) Secretaries of the Union Ministry of Education and Ministry of Electronics and Information Technology—Members *ex-officio*;

(2) The Central Government shall appoint such number of officers and staff as it may consider necessary for the functioning of the Authority.

(3) The salary and allowances payable to and other terms and conditions of services of officers and staff of the Authority shall be such, as may be prescribed.

4. (1) The Authority shall take steps to establish the Central Integrated Academic Database as well as the Central Integrated Plagiarism Software, as referred in section 7 of this Act.

Functions of
the Central
Academic
Integrity
Authority.

(2) The Authority shall meet at least twice in a year and shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed by the Central Government.

(3) The expenditure incurred to attend meetings by the members referred to in sub-clauses (a) to (d) of section 3, shall be borne by the Ministries concerned.

5. (1) Every Higher Educational Institution shall constitute a Academic Misconduct Authority to consider the recommendations of the Academic Misconduct Panel and take appropriate decisions after giving an opportunity to the accused persons to present their case.

Academic
Misconduct
Authority.

(2) The Academic Misconduct Authority shall consist of four members namely:—

(i) the Head of the Higher Educational Institution — Chairperson

(ii) the Dean of the Higher Educational Institution — Member

(iii) the Director (Academic Research) or equivalent of the Higher Educational Institution — Member

(iv) one senior academician not below the rank of Professor in the relevant discipline from outside the Higher Educational Institution — Member.

(3) The Academic Misconduct Authority shall prescribe the procedure based on principles of natural justice to be followed by the Academic Misconduct Authority while investigating allegations of plagiarism.

6. (1) Every Higher Educational Institutions shall constitute an Academic Misconduct Panel to investigate allegations of plagiarism and other forms of academic dishonesty.

Academic
Misconduct
Panel.

(2) The Academic Misconduct Panel shall have the power to assess the level of plagiarism ascertained by Central Integrated Plagiarism software, and recommend penalty accordingly.

(3) The Academic Misconduct Panel shall consist of seven members who shall be senior academicians with a good publication record to be appointed in such manner as may be prescribed.

(4) The Academic Misconduct Panel shall be headed by a Chairperson, who shall be an academic functionary of the Higher Educational Institutions.

(5) The Academic Panel shall consist of:—

(a) at least one female senior academician.

(b) at least one senior academician belonging to Schedule Castes or Scheduled Tribes.

(c) at least one senior academician appointed by the Head of the Higher Educational Institutions from outside the Higher Educational Institutions.

(d) at least one member shall be an expert, well versed with anti-plagiarism tools.

(e) one member shall be a reputed academician from the discipline in which the plagiarism is alleged.

(6) The Academic Misconduct Panel shall follow the principles of natural justice while deciding about the allegation of plagiarism against the student, researcher, faculty member or any other employee of Higher Educational Institutions.

(7) The Academic Misconduct Panel shall send the report after investigation containing its recommendations on penalties to be imposed to the Academic Misconduct Authority preferably within a period of thirty days from the date of complaint or initiation of the proceedings in case of *suo motu* notice.

(8) The Academic Misconduct Panel shall provide a copy of the report to the person(s) against whom the inquiry report is submitted.

CHAPTER III

DATABASE AND PLAGIARISM SOFTWARE

7. (1) The Authority shall, in consultation with senior academicians, create a national database, called the Central Integrated Database consisting of research papers, dissertations and thesis submitted by students, researchers and faculty members.

(2) The Authority shall, in collaboration with the Ministry of Statistics and Programme Implementation, provide access to statistical data and reports on the Central Integrated Academic Database in such manner as may be prescribed.

(3) The Central Integrated Academic Database shall be developed in such manner, to be used as a research database by students, researchers and faculty members of Higher Educational Institutions and it shall be an open access database in order to foster academic development.

8. (1) The Authority shall, in consultation with professionals engaged in data analytics and senior academicians, create an ante plagiarism software which shall have capabilities to detect:—

(i) similarities by pattern matching method, in order to disclose the amount of plagiarism in a concerned script; and

(ii) plagiarism in English and all languages mentioned in the Eighth Schedule of the Constitution.

(2) The Authority shall ensure that all persons covered by this Act, shall have access to plagiarism checking tools as part of the Central Integrated Plagiarism Software, in order to promote academic integrity.

Central
Integrated
Academic
Database.

Central
Integrated
Plagiarism
Software.

CHAPTER IV

PENALTIES

9. (1) Penalties in cases of plagiarism shall be imposed on students pursuing studies at the level of Under Graduate, Post Graduate, Masters, Ph.D. and researchers and faculty members of the Higher Educational Institutions only after the academic misconduct in question has been established without doubt and when all avenues of appeal are exhausted. Penalties in case of plagiarism.

(2) The Academic Misconduct Authority of the Higher Educational Institution, while referring to the levels of plagiarism defined in the University Grants Commission (Promotion of Academic Integrity and Prevention of Plagiarism in Higher Educational Institutions) Regulations, 2018, shall impose a penalty considering the severity of the Plagiarism, based on recommendations of the Academic Misconduct Panel which may be as follows:

(a) In case of students:

(i) if similarities are in the range of 10 per cent to 40 per cent, the concerned student shall not be awarded any marks or credits for the plagiarised script and he shall be asked to submit a revised script within a stipulated time period decided by the Academic Misconduct Panel.

(ii) if similarities above 40 per cent to 60 per cent, the concerned student shall not be awarded any marks or credits for the plagiarised script and he shall be asked to submit a revised script after a period of one year but not exceeding eighteen months.

(iii) if similarities above 60 per cent, the concerned student shall not be awarded any marks or credits for the plagiarised script and his registration for that particular course shall be cancelled:

Provided that, in case of repeated plagiarism by the concerned student, he shall be punished for one level higher than the previous level committed by him and in case the level of plagiarism is the highest, the same punishment shall be applied:

Provided further that, in case plagiarism is proved on a date later than the date of award of degree/credit, the Academic Misconduct Authority shall decide a period for which the degree or the credit shall be kept in abeyance.

(b) In case of researchers and faculty members of Higher Educational Institutions:—

(i) if similarities are in the range of 10 per cent to 40 per cent, the concerned person shall be asked to withdraw his script and shall be barred from publishing any work for a minimum period of one year.

(ii) if similarities are above 40 per cent to 60 per cent, the concerned person shall be asked to withdraw his manuscript submitted for publication and shall be barred from publishing any work for a minimum period of two years and shall be denied a right to one annual increment and shall not be allowed to be a supervisor to any student or scholar for a period of two years.

(iii) if similarities are above 60 per cent, the concerned person shall be asked to withdraw his manuscript submitted for publication and shall not be allowed to publish any work for a minimum period of two years and shall be denied a right to one annual increment and shall not be allowed to be a supervisor to any student/scholar for a period of two years:

Provided that, in case of repeated plagiarism by the concerned person, he shall be punished for one level higher than the previous level committed by him and in case the highest level of plagiarism is repeated, the concerned person shall be dismissed:

Provided further that in case plagiarism is proved on a date later than the date of award of degree or credit, the Academic Misconduct Authority, shall decide a period for which the degree or the credit shall be kept in abeyance.

(c) In case of any complaint of plagiarism against the Head of an Higher Educational Institute; the Authority shall take appropriate action after investigating the complaint under the provisions of this Act. 5

Remedies for an aggrieved party.

10. (1) Any party aggrieved by acts of academic dishonesty committed by persons covered under this Act, may approach the Academic Misconduct Authority with such complaints.

(2) The Academic Misconduct Authority shall, in accordance with principles of natural justice, investigate such complaints and furnish a report. 10

(3) The report, shall be forwarded to the concerned police station, in the form of a complaint, in case the aggrieved party wishes to seek appropriate remedies under the Indian Penal Code, 1860 and the Copyright Act, 1957.

45 of 1860.
14 of 1957.

11. (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: 15

Provided that no such order shall be made after the expiry of the period of three years from the date on which this Act receives the assent of the President. 20

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

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 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. 25 30

STATEMENT OF OBJECTS AND REASONS

In today's globalised world, academic research plays a significant role in any educational institution. It is of vital importance, to have knowledge-driven growth, that is based on innovation and originality of ideas. Research is the pillar that supports the advancement and flow of knowledge. The quality of such research unequivocally affects the quality of teaching and learning. This inevitably benefits students that later contribute to the society and the country.

Academic research refers to the creative process that is undertaken in a methodical manner in order to augment one's stock of knowledge. It refers to solving problems, both theoretical and practical, in a scientific and systematic way. However, we see that the Indian Education system faces a plethora of challenges such as, an emphasis on rote learning, absence of intellectual simulation, lack of scientific knowledge and most importantly, lack of training in research methodology.

The University Grants Commission (UGC), is the statutory body charged with the coordination, determination and maintenance of standards of higher education. While the UGC has brought in regulations to deal with academic standards from time to time, it has failed to tackle the issue of low standards with respect to academic integrity. Plagiarism, publishing in fake journals and adding an author's name to a paper they haven't contributed to, are few of the many ways research fraud is committed in India. The UGC (Promotion of Academic Integrity and Prevention of Plagiarism in Higher Educational Institutions) Regulations, 2018 were brought in with the sole aim of addressing plagiarism by teachers and students, researchers and faculty at India's universities and colleges. However, these Regulations have failed to effectively deal with the issue at hand.

This Bill seeks to bring a change to the current set of regulations governing research methodology and tackle the menace of plagiarism. It would bring in a set of guidelines and reduce the multiplicity of regulations that exist but do not give clarity on the subject. This Bill, in Chapter V makes reference to the levels of plagiarism prescribed as per the University Grants Commission (Promotion of Academic Integrity And Prevention of Plagiarism In Higher Educational Institutions) Regulations, 2018. To tackle the issues of plagiarism and other forms of academic fraud this Bill would create an Authority under the Ministry of Education, enforced with the duty to create an anti-plagiarism software that would not only cover publications written in English, but also twenty-two languages mentioned in the Eighth Schedule to the Constitution. The current system of Universities using their own set of guidelines and third-party plagiarism checkers - leads to a lack of uniformity in academic research as well as the sidelining of publications in vernacular languages, since these checkers are not equipped to deal with regional languages. Additionally, the Authority would also be tasked with the responsibility of creating a National Database consisting of all academic papers, thesis, manuscripts, etc. This Database shall serve as an open-access resource for every student, researcher and faculty member engaged in academic research.

This Bill, therefore, seeks to bring in much needed changes in order to foster notions of academic integrity.

DR. FAUZIA KHAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of the Central Academic Integrity Authority and expenditure to be incurred for salary and allowances.

Clause 7 mandates the establishment of the Central Integrated Academic Database (CIAD) and Clause 8 provides for the Central Integrated Plagiarism Software (CIPS). The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure to the tune of rupees one hundred crore would be involved from the Consolidated Fund of India. A non-recurring expenditure of about rupees fifty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

RAJYA SABHA

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BILL

to promote academic integrity in Higher Educational Institutions in the country and to curb plagiarism by establishing the Central Academic Integrity Authority and for matters connected therewith and incidental thereto.

(Dr. Fauzia Khan, M.P.)

MGIPMRND—1341RS(S3)—07-12-2021.

Bill No. XXI of 2021

THE ADVOCATES (AMENDMENT) BILL, 2021

A

BILL

further to amend the Advocates Act, 1961.

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

1. (1) This Act may be called the Advocates (Amendment) Act, 2021.

Short title and commencement.

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

25 of 1961.

2. In section 2 of the Advocates Act, 1961 (hereinafter referred to as the principal Act), after clause (i), the following clause shall be inserted, namely:—

Amendment of section 2.

10 "(ia) "misconduct" includes any act of a legal practitioner that is found to be in breach of or wanting in observance of the standard of professional conduct or etiquette prescribed by the rules framed under clause (c) of sub-section (1) of section of this Act, or any conduct that is a disqualification for enrolment under section 24A of this Act."

Amendment
of section 35.

3. In section 35 of the principal Act, in sub-section (3), after clause (d), the following clauses shall be inserted, namely:—

"(e) impose such fine as it may deem fit, proportionate to the gravity of the misconduct proved against the advocate, subject to the maximum limit of three lakh rupees; and

5

(f) award a fair and reasonable compensation of such amount as it may deem fit, subject to the maximum limit of five lakh rupees, payable to the person aggrieved by the misconduct of the concerned advocate."

Amendment
of section 43.

4. In section 43 of principal Act, after clause (b), the following shall be inserted, namely:—

10

"Provided that the disciplinary committee may order special or exemplary costs, subject to a maximum of two lakh rupees, to be payable either by the complainant, if the complaint is found to be vexatious or frivolous, or by the respondent advocate, if he is found to have been uncooperative in the disciplinary proceedings under this Act."

15

STATEMENT OF OBJECTS AND REASONS

The legal profession is considered a noble profession as it facilitates the establishment of a legal system that dispenses fair and impartial justice and protects the rule of law. The fundamental prerequisite for preserving the nobility of this profession is to ensure adherence to a well-defined set of professional norms that seek to regulate the conduct of advocates and provide adequate punishment in cases of proven misconduct.

Although both the Advocates Act 1961 and the Bar Council of India Rules lay down the standards of professional conduct, they are silent as to what the term 'misconduct' means in the context of the legal profession. This lack of specificity has resulted in the arbitrary usage of section 35 of the Act, which seeks to penalise the misconduct of advocates. Furthermore, the forms of punishment prescribed under section 35 are very limited. They do not allow for imposition of fine on the advocate on whose part the misconduct is proven, or provision of compensation to the party aggrieved by such misconduct. Lastly, the Act fails to provide punishment in case the complaint of misconduct is found to be vexatious or frivolous, or where the advocate has been uncooperative in the disciplinary proceedings.

To remedy this lacunae in the law governing the legal profession, this Bill inserts a comprehensive definition for 'misconduct', expands the scope of penalties and costs provided under sections 35 and 43. By doing so, this Bill lends much-needed clarity and efficacy to the professional norms that are aimed at deterring misconduct of advocates.

This Bill seeks to achieve the above objectives.

DR. SASMIT PATRA

ANNEXURE

EXTRACTS FROM THE ADVOCATES ACT, 1961

(25 OF 1961)

* * * * *

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

* * * * *

(i) “legal practitioner” means an advocate or vakil of any High Court, a pleader, mukhtar or revenue agent;

* * * * *

CHAPTER V

CONDUCT OF ADVOCATES

Punishment of advocates for misconduct.

35. (1) Where on receipt of a complaint or otherwise a State Bar Council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee.

(1A) The State Bar Council may, either of its own motion or on application made to it by any person interested, withdraw a proceeding pending before its disciplinary committee and direct the inquiry to be made by any other disciplinary committee of that State Bar Council.

(2) The disciplinary committee of a State Bar Council shall fix a date for the hearing of the case and shall cause a notice thereof to be given to the advocate concerned and to the Advocate-General of the State.

(3) The disciplinary committee of a State Bar Council after giving the advocate concerned and the Advocate-General an opportunity of being heard, may make any of the following orders, namely:—

(a) dismiss the complaint or, where the proceedings were initiated at the instance of the State Bar Council, direct that the proceedings be filed;

(b) reprimand the advocate;

(c) suspend the advocate from practice for such period as it may deem fit;

(d) remove the name of the advocate from the State roll of advocates.

* * * * *

Cost of proceedings before a disciplinary committees.

43. The disciplinary committee of a Bar Council may make such order as to the costs of any proceedings before it as it may deem fit and any such order shall be executable as if it were an order—

(a) in the case of an order of the disciplinary committee of the Bar Council of India, of the Supreme Court;

(b) in the case of an order of the disciplinary committee of a State Bar Council, of the High Court.

* * * * *

RAJYA SABHA

A

BILL

further to amend the Advocates Act, 1961.

(Dr. Sasmit Patra, M.P.)

MGIPMRND—1329RS(S3)—07-12-2021.

Bill No. XXX of 2021

THE ARMS (AMENDMENT) BILL, 2021

A

BILL

further to amend the Arms Act, 1959.

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

1. (1) This Act may be called the Arms (Amendment) Act, 2021.

Short title and commencement.

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

54 of 1959. 2. In the Arms Act, 1959 (hereinafter referred to as the principal Act), in sub-section (1) of section 2, after clause (k), the following clause shall be inserted, namely:—

Amendment of Section 2.

"(1) "woman" means unmarried, widowed and financially independent women".

3. In section 13 of the principal Act,—

Amendment of Section 13.

(i) in clause (a) of sub-section (3), after sub-clause (ii), the following shall be inserted, namely:—

"(iii) by a citizen of India, being a woman, as defined under section 2 of this Act, in respect of a smooth bore gun having a barrel of not less than twenty inches in length to be used for protection: 5

Provided that such a citizen, being a woman, shall be granted a license under this Act only after obtaining a weapon training or weapon safety course certified by the National Rifle Association of India or the respective State Rifle Association".

(ii) After sub-section (3), the following shall be inserted, namely:— 10

"3(4) The Central Government shall, by notification in the Official Gazette, establish Weapon Handling Centres in every district which shall be under the control of the respective office of the Superintendent of Police or an officer of process of obtaining licenses under this section in rural areas, in such manner as may be specified." 15

Amendment of Section 15.

4. In section 15 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) A licence under sub-clause (iii) of clause (a) of section 13 shall, unless revoked earlier, continue in force for a period of one year from the date on which it is granted". 20

Amendment of Section 25.

5. In section 25 of the principal Act, in sub-section (1B), after clause (d), the following shall be inserted, namely:—

"(e) being the husband or a family member of a woman holding license under section 13 of this Act, acquires, has in his possession or carries any firearm or ammunition belonging to such woman; or" 25

Amendment of Section 44.

6. In section 44 of the principal Act, in sub-section (2), after clause (I), the following clauses shall be inserted, namely:—

"(1a) the procedure to ease grant of license under section 13 to women for the purposes of self-protection, by,—

(i) revising the form and particulars of application for the grant or renewal of a licence and where the application is for the renewal of a licence, the time within which it shall be made; 30

(ii) revising the form in which and the conditions subject to which any licence may be granted or refused, renewed, varied, suspended or revoked;

(iii) easing the process of paying the fees in respect of any application for the grant or renewal of a licence and in respect of any licence granted or renewed and the manner for paying the same; 35

(1b) the establishment of Weapon Handling Centres in each district for obtaining licenses in rural areas."

STATEMENT OF OBJECTS AND REASONS

The safety and protection of women has always been a concern in India. After the horrendous incident of gang rape that occurred in 2012 in the National Capital of Delhi, several changes were brought through the Criminal Law (Amendment) Act, 2013. This legislation introduced much needed reforms to strengthen the criminal justice system, in order to protect rights of women. The Justice Verma Committee which recommended such reforms, also highlighted in its Model Bill of Rights that, every woman is entitled to respect for her life and the integrity and security of her person. It stated that the right to dignity is inherent to every human being and that the State shall ensure to every woman protection from all forms of violence, whether the violence takes place in private or public. More recently, the brutal gang rape and murder of a young doctor in Hyderabad, whose job compelled her to travel alone through lonely routes, is a glaring cause that makes amendment to the Arms Act, 1959 in favour of a woman for self defence a necessity.

This Bill seeks to protect the rights of women, especially those whose job or other circumstances compel them to commute alone, by bringing in special provisions to the Arms Act, 1959. According to a report by the National Crime Records Bureau, the reported cases Crimes against Women increased by 7.3% in 2019. This Bill strives to empower and protect women by relaxing provisions governing the grant of license, which is required in order for acquisition and possession of firearms. This Bill will ensure prevention of mishaps and maintenance of public order, by incorporating provisions that mandate regular training. It is the need of the hour, to ease women's access to firearms for the purpose of self defense.

Hence this Bill.

DR. FAUZIA KHAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of Weapon Handling Centres in every district. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure to the tune of rupees two hundred crore would be involved from the Consolidated Fund of India. A non-recurring expenditure of about rupees ten crore is also likely to be involved.

RAJYA SABHA

A

BILL

further to amend the Arms Act , 1959.

(Dr. Fauzia Khan, M.P.)

MGIPMRND—1339RS(S3)—07.12.2021.

Bill No. 148 of 2021

THE CENTRAL VIGILANCE COMMISSION (AMENDMENT)
BILL, 2021

A

BILL

further to amend the Central Vigilance Commission Act, 2003.

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

1. (1) This Act may be called the Central Vigilance Commission (Amendment) Act, 2021. Short title and commencement.

5 (2) It shall be deemed to have come into force on the 14th day of November, 2021.

45 of 2003. 2. In section 25 of the Central Vigilance Commission Act, 2003, in clause (d), the following provisos shall be inserted, namely:— Amendment of section 25.

10 "Provided that the period for which the Director of Enforcement holds the office on his initial appointment may, in public interest, on the recommendation of the Committee under clause (a) and for the reasons to be recorded in writing, be extended up to one year at a time:

Provided further that no such extension shall be granted after the completion of a period of five years in total including the period mentioned in the initial appointment;"

Repeal and savings.

3. (1) The Central Vigilance Commission (Amendment) Ordinance, 2021 is hereby repealed. Ord.9 of 2021.

(2) Notwithstanding such repeal, anything done or any action taken under the Central Vigilance Commission (Amendment) Ordinance, 2021, shall be deemed to have been done or taken under the provisions of this Act. 5 Ord.9 of 2021.

STATEMENT OF OBJECTS AND REASONS

The menace of corruption, black money and international financial crime and its intricate link with drugs, terrorism and other criminal offences pose a serious threat to national security and the stability of financial systems of our country. Further, corruption in public life often has the inevitable consequence of economic and social rights of people being violated. The spectre of corruption erodes the confidence of people in the systems that are meant to provide them good governance. Effectively tackling corruption and financial crimes is, therefore, essential for the realisation of economic and social rights of people and for maintaining their faith in institutions of governance. In the present times, the menace of corruption has become inextricably linked with money-laundering which is being tackled by every nation not only individually but as a part of a global network.

2. In order to obviate such threats, international community has been consistently taking multi-lateral global initiatives over the years. With the advent of newer technologies, tax havens and other factors of global importance, newer avenues and techniques have emerged which make the task far more complicated. The fight against corruption, black money, money-laundering and threat of proceeds of crime destabilising the world economy is at a critical juncture.

3. In India, various legislations have been enacted since 1946 to combat corruption, money-laundering and economic offences, amongst other such activities e.g. the Delhi Special Police Establishment Act, 1946, the Prevention of Corruption Act, 1988 and the Prevention of Money-Laundering Act, 2002.

4. India is a member of Financial Action Task Force (FATF), an inter-governmental international body under United Nations. The FATF has developed recommendations or standards to prevent and combat money-laundering and terror financing. About 200 countries or jurisdictions, with India playing a major role, have committed to implement these standards. The FATF conducts peer reviews of these countries or jurisdictions on an ongoing basis to assess levels of implementation of the FATF recommendations, providing an in-depth description and analysis of each country's system for preventing criminal abuse of the financial systems. The peer review to assess technical compliances of India with the recommendations of FATF is scheduled to be held in the year 2022/23 after a gap of more than a decade.

5. The FATF has recommended at para 8 as follows:—

“8 Law enforcement authorities and prosecutorial authorities should have adequate financial, human and technical resources. Countries should have in place processes to ensure that the staff of these authorities maintain high professional standards, including standards concerning confidentiality, and should be of high integrity and be appropriately skilled.”.

Therefore, the subject matter of Indian Mutual Evaluation stipulates that India proves its "capacity" and "resources" for financial crime investigation and financial crime prosecution.

6. India's position requires significant enhancement of capacity and resources. Additionally, under certain circumstances the nation faces certain sensitive investigative and legal processes attendant to important money-laundering cases, requiring extradition of fugitive offenders, which requires a continuum. The Directorate of Enforcement has sole jurisdiction to investigate money-laundering offences in India and co-ordination with global counter-parts, at times it becomes self-defeating to have tenure restriction at supervisory and decision-making position considering that at the level of international co-ordination, it is the personal individual knowledge, information and diplomacy which are required more than

just institutional knowledge and information. Considering that the Director of Enforcement and Director, CBI are important part of the concerted global actions against corruption and money-laundering, legal provisions or service rules restricting their tenure may be counterproductive. In certain situations, their tenure may need to be extended beyond the initial fixed terms. At the same time, it is rational to have an upper limit to the tenure of such appointments to maintain independence. The positive outcome in India's mutual evaluation is critical for the financial future of the country. Further, there is every possibility of such global contingencies occurring in the future and therefore, amendments in the Central Vigilance Commission Act, 2003 are necessitated to meet such contingencies whenever it arises, with certain in-built safeguards.

7. While the Directorate of Enforcement (ED) has the sole jurisdiction to investigate the money-laundering cases, the Central Bureau of Investigation (CBI) has the primary responsibility to investigate cases of corruption. With the interlinking of persons and groups involved in money-laundering and corruption activities, unravelling the crime and corruption nexus through the ED and CBI becomes not only complex, but also has international ramifications. Thus, investigation of such crimes requires the two investigating agencies to have robust processes and senior personnel in position for sufficiently long tenures. As such, enhancing capacity and resources for continuing oversight by the senior officers, especially the heads of the two agencies, is fundamental to the proposed re-strengthening. It is strongly felt that assured long tenures of the heads of ED and CBI on similar lines would be highly desirable.

8. Considering that ordinarily, longer tenures are an established practice in major countries, two years tenure ought to be a minimum and that is what is contemplated in the statutory provisions. However, in India's case owing to several factors, including the issues of seniority and hierarchy, two years tenure has in fact become the upper limit with individuals being appointed close to their date of superannuation.

9. In view of the above, while leaving sufficient room for the competent authority to suitably decide the tenure of the officer heading the important investigating agencies of the Government and supervising sensitive cases involving public interest depending upon the circumstances, it is essential to provide clear enabling stipulations in the Central Vigilance Commission Act, 2003 and the Delhi Special Police Establishment Act, 1946 in regard to the tenure, and extension of his tenure of appointment and an upper limit of tenure. The said enabling provisions ensure the continuity of tenure depending upon the exigencies of the office at a given point of time and also safeguard the sanctity and independence of the sensitive position occupied by the person in-charge and will remove possibility of any other interpretation.

10. Keeping the above in view and with the objective to remove any contrary interpretation and with a view to make a specific provision, leaving room for the competent authority, depending on the exigencies of circumstances, in the tenure of the officer heading the important investigating agency of the Government and supervising sensitive cases involving public interest, it is essential to provide clear and unambiguous enabling provision regarding tenure of the officer heading the investigating agency in the Central Vigilance Commission Act, 2003.

11. The Central Vigilance Commission Act, 2003 was enacted to provide for the constitution of a Central Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government and for matters connected therewith or incidental thereto.

12. The appointment of officers of Directorate of Enforcement is governed by the Central Vigilance Commission Act, 2003. Clause (d) of section 25 of the said Act provides

that—“*a Director of Enforcement shall continue to hold office for a period of not less than two years from the date on which he assumes office;*”.

13. As the Parliament was not in session and there was an immediate need of legislation in this regard, the Central Vigilance Commission (Amendment) Ordinance, 2021 (Ord. 9 of 2021) was promulgated on 14th day of November, 2021.

14. The Central Vigilance Commission (Amendment) Bill, 2021 which seeks to replace the Central Vigilance Commission (Amendment) Ordinance, 2021 (Ord. 9 of 2021) provides for amendment of section 25 so as to insert two provisos therein.

15. The Bill seeks to replace the aforesaid Ordinance.

New Delhi;
The 1st December, 2021.

DR. JITENDRA SINGH.

ANNEXURE

EXTRACT FROM THE CENTRAL VIGILANCE COMMISSION ACT, 2003

(45 OF 2003)

* * * * *

Appointments,
etc., of
officers of
Directorate of
Enforcement.

25. Notwithstanding anything contained in the Foreign Exchange Management Act, 1999 or any other law for the time being in force,—

* * * * *

(d) a Director of Enforcement shall continue to hold office for a period of not less than two years from the date on which he assumes office;

* * * * *

LOK SABHA

A

BILL

further to amend the Central Vigilance Commission Act, 2003.

(Dr. Jitendra Singh, Minister of State for Personnel, Public Grievances and Pensions)

MGIPMRND—1231LS(S3)—01-12-2021.

AS INTRODUCED IN THE RAJYA SABHA
ON THE 3RD DECEMBER, 2021

Bill No. II of 2021

THE CIGARETTES AND OTHER TOBACCO PRODUCTS (PROHIBITION
OF ADVERTISEMENT AND REGULATION OF TRADE AND
COMMERCE, PRODUCTION, SUPPLY AND
DISTRIBUTION) (AMENDMENT) BILL, 2021

A

BILL

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

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

1. (1) This Act may be called the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and
5 Distribution) (Amendment) Act, 2021. Short title and
commencement.

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

Substitution of
preamble.

2. In the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (hereinafter referred to as the principal Act), for the preamble, the following shall be substituted, namely:—

34 of 2003.

WHEREAS India is a signatory to the World Health Organization Framework Convention on Tobacco Control adopted in Geneva, Switzerland on 21st day of May 2003 which came into force on the 27th day of February, 2005;

5

AND WHEREAS the objective of this Convention and its protocols is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by the Parties at the national, regional and international levels in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke;

10

AND WHEREAS, it is considered expedient to enact a comprehensive law to implement the WHO Framework Convention on Tobacco Control and its Guidelines in the public interest and to protect the public health;

15

AND WHEREAS, it is expedient to prohibit the consumption of cigarettes and other tobacco products which are injurious to health with a view to achieving improvement of public health in general as enjoined by article 47 of the Constitution;

AND WHEREAS, it is expedient to prohibit the advertisement of, and to provide for regulation of trade and commerce, production, supply and distribution of, cigarettes and other tobacco products and for matters connected therewith or incidental thereto:

20

Amendment of
Section 3.

3. In section 3 of the principal Act, --

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

"(a) "advertisement" includes any visible representation by way of notice, circular, label, wrapper pamphlet, brochure, programme, price-list, label, wrapper or other document and any form of commercial communication, recommendation, or action with the aim, effect, or likely effect of promoting cigarettes or any other tobacco product, or tobacco use, either directly or indirectly;"

25

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

30

(c) "distribution" includes distribution by way of samples.

(iii) for clause (1), the following clause shall be substituted, namely: —

(1) "public place" means any place to which the public have access, whether as of right or not, and includes auditorium, hospital buildings, airports, railway station, railway waiting room, bus stop, amusement centres, hotels, restaurants, public offices, work places, court buildings, educational institutions, libraries, parks, public conveyances and the like which are visited by general public;

35

(iv) clause (n), shall be omitted.

Substitution of
section 4.

4. For section 4 of the principal Act, the following section shall be substituted, namely:—

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

40

Prohibition of
use of tobacco
in a public
place.

Explanation.—For the purpose of this section, "use" means, chewing, inhaling, ingesting, spitting or otherwise introducing the tobacco product or any of its constituents or emissions into the human body or voluntarily ejecting tobacco product or any of its constituents or emissions after chewing, inhaling and ingesting;

5. For section 5 of the principal Act, the following section shall be substituted, namely:— Substitution of section 5.

"5.(1) No person shall initiate, produce, disseminate or broadcast any advertisement or promotion of cigarettes or any other tobacco products through any medium and no person shall directly or indirectly promote the use or consumption of cigarettes or any other tobacco products. Prohibition on advertisement and promotion of cigarettes or any other tobacco products.

(2) No person, for any direct or indirect pecuniary benefit or otherwise, shall-

(a) display, cause to display, or permit or authorise to display any advertisement of cigarettes or any other tobacco product on any medium including audio, audiovisual, print (including newspapers or magazines whether domestic or international, pamphlets, leaflets, flyers and letters), billboards, hoardings, posters, signs, non-tobacco products, tobacco accessories, buildings or other structures, vehicles, television, radio, films, music, games, live performances, the internet including over-the-top media services, social media platforms, mobile telephones, and other new technologies; or

(b) supply or offer to supply free samples of a tobacco product, including in connection with marketing surveys or taste testing; or

(c) import, distribute, sell or offer for sale any confectionery or other food product or any toy or any other article that is designed to resemble a tobacco product or the packaging of which is designed to resemble the packaging commonly associated with a tobacco product; or

(d) offer to sell any tobacco product at a discounted price; or

(e) provide gifts or discounted products with the purchase of any tobacco product; or

(f) offer or engage in any incentive promotions, loyalty schemes, or competitions associated with tobacco products or brand names whether requiring the purchase of tobacco products or not; or

(g) use a name, brand, mark or trademark of a tobacco product on or in association with, or for marketing, promoting or advertising, any other product, service or event; or

(h) use particular colours, layouts or presentation that are associated with particular tobacco products for marketing, promoting or advertising, any other product, service or event; or

(i) market tobacco products with the aid of a name, mark or brand which is known as, or in use as, a name or brand for any other product, service or event; or

(j) use tobacco products when advertising other goods and services.

Explanation:—For the purpose of this section, "advertising" means any form of commercial communication, recommendation, or action with the aim, effect, or likely effect of promoting cigarettes or any other tobacco product, or tobacco use, either directly or indirectly.

(3) No person, shall:—

(a) provide, receive, initiate or be a party to sponsorship in relation to a tobacco product;

(b) promote or agree to promote whether directly or indirectly any mark, trademark or brand name of a company whose principal business is the manufacture, import or distribution of tobacco products;

(c) provide, receive, initiate or be a party to the provision of financial or other support to artistic, sporting, political or other events, activities, individuals or groups, including corporate social responsibility activities, by or from a company whose principal business is the manufacture, import or distribution of cigarettes or any other tobacco products. 5

Explanation:—For the purpose of this sub-section,—

(a) "sponsorship" means any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;

(b) "trade mark" means the whole or a part of a trade mark that is registered under the Trade Marks Act, 1999 in respect of goods that are or include tobacco products, irrespective of whether the same or similar marks are also registered in respect of other goods or services". 10 47 of 1999.

(4) No person shall cause or permit display of any tobacco product, or their packaging at the entrance or inside of a warehouse or a shop where cigarettes or any other tobacco products are offered for distribution or sale. 15

Explanation:—For the purpose of this section, "display" means, when any tobacco product or the packaging of a tobacco product is visible to any member of the public in general and not during the course of a transaction for the sale of a specific tobacco product.

(5) The owner or person in control of a warehouse or a shop where cigarettes or any other tobacco products are offered for distribution or sale, — 20

(a) shall ensure that cigarettes and other tobacco products are kept in a closed container or dispenser that is not accessible to any member of the public;

(b) may display a sign in black writing on a white background that states tobacco products are available for sale, provided that the size, nature and location of the sign are as prescribed by rules made under this Act; 25

(c) may provide a list of cigarettes and other tobacco products available for sale, in a manner as prescribed by rules made under this Act."

Amendment of section 6.

6. In Section 6 of the principal Act, —

(i) in clause (a), for the word "eighteen", the word "twenty one" shall be substituted. 30

(ii) in clause (b), for the word "yards", the word "meters" shall be substituted.

Amendment of section 7.

7. In section 7 of the principal Act,—

(i) after sub-section (3), the following sub-section shall be inserted, namely:—

" (3A) No person shall sell, offer to sell cigarettes or any other tobacco products outside its package but in sealed, intact, original packaging of standard size, contents and weights as may be prescribed." 35

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) The specified warning shall appear on the principal display areas of the package in which cigarettes or any other tobacco products have been packed for distribution, sale or supply in a manner as may be prescribed by rules made under this Act." 40

(iii) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) Any person manufacturing or producing cigarettes or any other tobacco products shall disclose periodically and upon request the constituents and emissions on each cigarette or as the case may be on other tobacco products to the Central Government in such manner as may be prescribed. 45

5	<p>Provided that the information disclosed on the constituents and emissions on each cigarette or as the case may be on other tobacco products shall be indicated by the producer, supplier, distributor or seller on every package of cigarettes or any other tobacco product in such manner as may be prescribed by rules made under this Act".</p>	
8.	<p>In section 10 of the principal Act, for the words "nicotine and tar contents", the words, "constituents and emissions" shall be substituted.</p>	Amendment of section 10.
9.	<p>In section 11 of the principal Act, for the words "nicotine and tar contents", the words, "constituents and emissions" shall be substituted</p>	Amendment of section 11.
10	<p>10. In section 15 of the principal Act, for the words "nicotine and tar contents", the words, "constituents and emissions" shall be substituted.</p>	Amendment of section 15.
11.	<p>For section 20 of the principal Act, the following section shall be substituted, namely:—</p>	Amendment of section 20.
15	<p>(1) Any person who produces or manufactures cigarettes or any other tobacco products, which do not contain, either on the package or on their label, the specified warning and constituents and emissions shall in the case of first conviction be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifty thousand rupees, or with both, and for the second or subsequent conviction, with imprisonment for a term which may extend to five years and with fine which may extend to one lakh rupees.</p>	Punishment for failure to give specified warning and constituents and emissions.
20	<p>(2) Any person who sells or distributes cigarettes or any other tobacco products which do not contain either on the package or on their label, the specified warning and constituents and emissions shall in the case of first conviction be punishable with imprisonment for a term, which may extend to one year, or with fine which may extend to ten thousand rupees, or with both, and, for the second or subsequent conviction, with imprisonment for a term which may extend to two years and with fine which may extend to twenty five thousand rupees.</p>	
25	<p>(3) Any person who produces or manufactures cigarettes or any other tobacco products, does not disclose to the Central Government the constituents and emissions of cigarettes or any other tobacco products shall in the case of first conviction be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifty thousand rupees, or with both, and for the second or subsequent conviction, with imprisonment for a term which may extend to five years and with fine which may extend to one lakh rupees.</p>	
30	<p>(3) Any person who produces or manufactures cigarettes or any other tobacco products, does not disclose to the Central Government the constituents and emissions of cigarettes or any other tobacco products shall in the case of first conviction be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifty thousand rupees, or with both, and for the second or subsequent conviction, with imprisonment for a term which may extend to five years and with fine which may extend to one lakh rupees.</p>	
35	<p>12. In Section 21 of the principal Act, in sub-section (1), for the words "two hundred rupees" the words, "one thousand rupees" shall be substituted.</p>	Amendment of section 21.
13.	<p>In section 22 of the principal Act,—</p>	Amendment of section 22.
(i)	<p>in clause (a), for the words, "which may extend to one thousand rupees" the words "which may extend to ten thousand rupees" shall be substituted.</p>	
40	<p>(ii) in clause (b), for the words, "which may extend to five thousand rupees" the words, "which may extend to fifty thousand rupees" shall be substituted.</p>	
14.	<p>For section 23 of the principal Act, the following section shall be substituted, namely:—</p>	Substitution of section 23.
45	<p>23. Where any person has been convicted under this Act for the contravention of the provision of sections 3,5, 6 and 7, the advertisements materials and packages of cigarettes and other tobacco products may be forfeited to the Government and such advertisements materials and packages shall be disposed of in such manner as may be prescribed by rules made under this Act.</p>	Forfeiture of advertisement materials and packages of cigarettes.

Substitution of Section 24.	<p>15. For section 24 of the principal Act, the following section shall be substituted, namely:—</p> <p style="padding-left: 40px;">24. Any person who contravenes the provisions of section 6 shall be guilty of an offence under this Act and shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to a fine which may extend upto one lakh rupees.</p>	5
Punishment for sale of cigarettes or other tobacco products in certain places or to persons below the age of twenty one years.		
Insertion of new sections 24A and 24AA.	<p>16. After section 24 of the principal Act, the following sections shall be inserted, namely: —</p> <p style="padding-left: 40px;">24A. No person shall directly or indirectly, produce or manufacture or sell or distribute or offer for sale or permit sale of illicit cigarettes or any other tobacco products.</p> <p style="padding-left: 80px;">"24A. (1) Any person who produces or manufactures or supplies or imports illicit cigarettes or any other tobacco products shall in the case of first conviction be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifty thousand rupees, or with both, and for the second or subsequent conviction, with imprisonment for a term which may extend to five years and with fine which may extend to one lach rupees.</p> <p style="padding-left: 80px;">(2) Any person who distributes or sells, or offers for sale or permits sale of illicit cigarettes or any other tobacco products shall in the case of first conviction be punishable with imprisonment for a term, which may extend to one year, or with fine which may extend to ten thousand rupees, or with both, and, for the second or subsequent conviction, with imprisonment for a term which may extend to two years and with fine which may extend to twenty five thousand rupees."</p>	10
Prohibition on production or sale etc. of illicit cigarettes or any other tobacco products.		
Punishment on production or sale etc. of illicit cigarettes or any other tobacco products.		
Amendment of section 25.	<p>17. In section 25 of the principal Act, -"the words and figure "or section 6" wherever they occurred shall be <i>omitted</i>".</p>	15
Substitution of section 27.	<p>18. For section 27 of the principal Act, the following section shall be substituted, namely:—</p> <p style="padding-left: 40px;">"27.(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be bailable.</p> <p style="padding-left: 40px;">(2) For the avoidance of doubts, it is hereby declared that offences punishable under section 5, 6, and 7 of this Act shall be cognizable."</p>	20
Offences to be cognizable and bailable.		2 of 1974.
Amendment of section 28.	<p>19. In section 28 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—</p> <p style="padding-left: 40px;">"(1) any offence committed under section 4 may either before or after the institution of the prosecution be compounded by such officer authorized by Central Government or State Government and for an amount which may not exceed one thousand rupees."</p>	30
Amendment of section 30.	<p>20. In section 30 of the principal Act, the following proviso shall be inserted, namely:—</p> <p style="padding-left: 40px;">"Provided that the Central Government, may, by notification, remove any tobacco product specified in the Schedule of the Act, in respect of which production, supply and distribution has been prohibited under any other law".</p>	35
		40

21. In section 31 of the principal Act, in sub-section (2),—

Amendment of
section 31.

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

5 "(b) specify the form and the manner in which constituents and emissions shall be disclosed to the Central Government and indicated on packages of cigarettes or other tobacco products under sub-section (5) of section 7".

(ii) in clause (d), for the words "nicotine and tar contents", the words, "constituents and emissions" shall be substituted.

22. In section 32 of the principal Act, in the proviso, for the words "nicotine and tar contents", the words, "constituents and emissions" shall be substituted.

Amendment of
section 32.

STATEMENT OF OBJECTS AND REASONS

India has over 26 crores tobacco users, and tobacco kills over 13 lakh Indians each year. The total direct and indirect cost of diseases attributable to tobacco use was a staggering 1.04 lakh crore (\$17 billion) in 2011 or 1.16 per cent of India's GDP according to the 'Economic Burden of Tobacco Related Diseases in India'. Owing to such high numbers, there is a considerably high number of people who are exposed to secondhand smoke which can prove to be equally dangerous. Over the past two decades, India has made a considerable amount of progress. Nationwide surveys show that the proportion of people using tobacco came down from 34.6 per cent in 2010 to 28.6 per cent in 2017. This meant 81 lakh fewer tobacco users during this period saving a significant number of lives.

The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003 was enacted over 17 years ago. This Bill, while amending some of the penal provisions to make it more stringent also aims to abolish all designated smoking areas in airports, hotels and restaurants, as it has been shown that comprehensive smoke-free areas that include workplaces, restaurants, and bars are estimated to reduce the risk of heart attack by 85 per cent improve the respiratory health of workers, and may also reduce the risk of stroke. A study conducted in over 6000 hospitality venues across 8 cities in India found that only 4 per cent of the venues had a designated smoking room (DSR) and among those that could be assessed for compliance, only 3 per cent (n=3) were compliant with the requirements as provided for in the above Act. The Bill also aims to ban all point of sale advertising and point of sale tobacco product displays. A study assessing data from 130 countries found that point of sale advertising bans are significantly associated with reduced smoking experimentation among youth. A study reviewing data from 77 countries estimated that having a point of sale display ban reduced daily smoking prevalence by about 7 per cent. The Bill makes provision for prohibiting single stick sales of cigarettes and bidis. Evidence suggests that availability of single cigarettes facilitates smoking among youth and people with fewer resources, and that having greater accessibility of single cigarettes reduces the likelihood that smokers will make a quit attempt. The Bill also provides for establishing fines large enough to deter violations, establishing a system for increasingly severe penalties for repeat violations and provide authority for Ministry of Health and Family Welfare OHFW to revise penalties through rules.

The Bill seeks to achieve the stated objectives.

Dr. SASMIT PATRA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill proposes to amend section 31 of the principal Act to empower the Central Government to make rules for specifying the form and the manner in which the constituents and omissions shall be disclosed to the Central Government. The rules to be made by the Government pertain to matters of administrative detail only. The delegation is, therefore, normal in character.

ANNEXURE

EXTRACTS FROM THE CIGARETTES AND OTHER TOBACCO PRODUCTS (PROHIBITION OF
ADVERTISEMENT AND REGULATION OF TRADE AND COMMERCE, PRODUCTION,
SUPPLY AND DISTRIBUTION) ACT, 2003

(34 OF 2003)

* * * * *

An Act to prohibit the advertisement of, and to provide for the regulation of trade, and commerce in, and production, supply and distribution of, cigarettes and other tobacco products and for matters connected therewith or incidental thereto.

WHEREAS, the Resolution passed by the 39th World Health Assembly (WHO), in its Fourteenth Plenary meeting held on the 15th May, 1986 urged the member States of WHO which have not yet done so to implement the measures to ensure that effective protection is provided to non-smokers from involuntary exposure to tobacco smoke and to protect children and young people from being addicted to the use of tobacco;

AND WHEREAS, the 43rd World Health Assembly in its Fourteenth Plenary meeting held on the 17th May, 1990, reiterated the concerns expressed in the Resolution passed in the 39th World Health Assembly and urged Member States to consider in their tobacco control strategies plans for legislation and other effective measures for protecting their citizens with special attention to risk groups such as pregnant women and children from involuntary exposure to tobacco smoke, discourage the use of tobacco and impose progressive restrictions and take concerted action to eventually eliminate all direct and indirect advertising promotion and sponsorship concerning tobacco;

AND WHEREAS, it is considered expedient to enact a comprehensive law on tobacco in the public interest and to protect the public health;

AND WHEREAS, it is expedient to prohibit the consumption of cigarettes and other tobacco products which are injurious to health with a view to achieving improvement of public health in general as enjoined by article 47 of the Constitution;

AND WHEREAS, it is expedient to prohibit the advertisement of, and to provide for regulation of trade and commerce, production, supply and distribution of, cigarettes and other tobacco products and for matters connected therewith or incidental thereto:

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

* * * * *

Definitions.

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

(a) "advertisement" includes any visible representation by way of notice, circular, label, wrapper or other document and also includes any announcement made orally or by any means of producing or transmitting light, sound, smoke or gas;

* * * * *

(c) "distribution" includes distribution by way of samples, whether free or otherwise;

* * * * *

(I) "public place" means any place to which the public have access, whether as of right or not, and includes auditorium, hospital buildings, railway waiting room,

amusement centres, restaurants, public offices, court buildings, educational institutions, libraries, public conveyances and the like which are visited by general public but does not include any open space;

* * * * *

4. No person shall smoke in any public place:

Prohibition of smoking in a public place.

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

* * * * *

5. (1) No person engaged in, or purported to be engaged in the production, supply or distribution of cigarettes or any other tobacco products shall advertise and no person having control over a medium shall cause to be advertised cigarettes or any other tobacco products through that medium and no person shall take part in any Advertisement which directly or indirectly suggests or promotes the use or consumption of cigarettes or any other tobacco products.

Prohibition of advertisement of cigarettes and other tobacco products.

(2) No person, for any direct or indirect pecuniary benefit, shall—

(a) display, cause to display, or permit or authorise to display any advertisement of cigarettes or any other tobacco product; or

(b) sell or cause to sell, or permit or authorise to sell a film or video tape containing advertisement of cigarettes or any other tobacco product; or

(c) distribute, cause to distribute, or permit or authorise to distribute to the public any leaflet, hand-bill or document which is or which contains an advertisement of cigarettes or any other tobacco product; or

(d) erect, exhibit, fix or retain upon or over any land, building, wall, hoarding, frame, post or structure or upon or in any vehicle or shall display in any manner whatsoever in any place any advertisement of cigarettes or any other tobacco product:

Provided that this sub-section shall not apply in relation to-

(a) an advertisement of cigarettes or any other tobacco product in or on a package containing cigarettes or any other tobacco product;

(b) advertisement of cigarettes or any other tobacco product which is displayed at the entrance or inside a warehouse or a shop where cigarettes and any other tobacco products are offered for distribution or sale.

(3) No person, shall, under a contract or otherwise promote or agree to promote the use or consumption of—

(a) cigarettes or any other tobacco product; or

(b) any trade mark or brand name of cigarettes or any other tobacco product in exchange for a sponsorship, gift, prize or scholarship given or agreed to be given by another person.

* * * * *

6. No person shall sell, offer for sale, or permit sale of, cigarette or any other tobacco product—

Prohibition on sale of cigarette or other tobacco products to a person below the age of eighteen years and in particular area.

(a) to any person who is under eighteen years of age, and

(b) in an area within a radius of one hundred yards of any educational institution.

* * * * *

Restrictions on trade and commerce in, and production, supply and distribution of cigarettes and other tobacco products.	<p>7.</p> <p>(3) No person shall import cigarettes or any other tobacco products for distribution or supply for a valuable consideration or for sale in India unless every package of cigarettes or any other tobacco products so imported by him bears thereon, or on its label, the specified warning.</p> <p>(4) The specified warning shall appear on not less than one of the largest panels of the package in which cigarettes or any other tobacco products have been packed for distribution, sale or supply for a valuable consideration.</p> <p>(5) No person shall, directly or indirectly, produce, supply or distribute cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products produced, supplied or distributed by him indicates thereon, or on its label, the nicotine and tar contents on each cigarette or as the case may be on other tobacco products along with the maximum permissible limits thereof:</p> <p>Provided that the nicotine and tar contents shall not exceed the maximum permissible quantity thereof as may be prescribed by rules made under this Act.</p>
Size of letters and figures.	<p>10. No specified warning or indication of nicotine and tar contents in cigarettes and any other tobacco products shall be deemed to be in accordance with the provisions of this Act if the height of each letter or figure, or both the used on such warning and indication is less than the height as may be prescribed by rules made under this Act.</p>
Testing laboratory for nicotine and tar contents.	<p>11. For purposes of testing the nicotine and tar contents in cigarettes and any other tobacco products the Central Government shall by notification in the Official Gazette grant recognition to such testing laboratory as that Government may deem necessary.</p>
Power to give option to pay costs in lieu of confiscation.	<p>15.</p> <p>(2) On payment of the costs ordered by the court, the seized packages shall be returned to the person from whom they were seized on condition that such person shall, before making any distribution, sale or supply of such packages of cigarettes or other tobacco products, get the specified warning and indication of nicotine and tar contents incorporated on each such package.</p>
Punishment for failure to give specified warning and nicotine and tar contents.	<p>20. (1) Any person who produces or manufactures cigarettes or tobacco products, which do not contain, either on the package or on their label, the specified warning and the nicotine and tar contents, shall in the case of first conviction be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both, and for the second or subsequent conviction, with imprisonment for a term which may extend to five years and with fine which may extend to ten thousand rupees.</p> <p>(2) Any person who sells or distributes cigarettes or tobacco products which do not contain either on the package or on their label, the specified warning and the nicotine and tar contents shall in the case of first conviction be punishable with imprisonment for a term, which may extend to one year, or with fine which may extend to one thousand rupees, or with both, and, for the second or subsequent conviction, with imprisonment for a term which may extend to two years and with fine which may extend to three thousand rupees.</p>

21. (1) Whoever contravenes the provisions of section 4 shall be punishable with fine which may extend to two hundred rupees. Punishment for smoking in certain places.

(2) An offence under this section shall be compoundable and shall be tried summarily in accordance with the procedure provided for summary trials in the Code of Criminal Procedure, 1973 (2 of 1974).

22. Whoever contravenes the provision of section 5 shall, on conviction, be punishable— Punishment for advertisement of cigarettes and tobacco products.

(a) in the case of first conviction, with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both; and

(b) in the case of second or subsequent conviction with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees.

23. Where any person has been convicted under this Act for the contravention of the provision of section 5, the advertisement and the advertisement material for cigarettes and other tobacco products may be forfeited to the Government and such advertisement and advertisement material shall be disposed of in such manner as may be prescribed by rules made under this Act. Forfeiture of advertisement and advertisement material.

24. (1) Any person who contravenes the provisions of section 6 shall be guilty of an offence under this Act and shall be punishable with fine which may extend to two hundred rupees. Punishment for sale of cigarettes or any other tobacco products in certain places or to persons below the age of eighteen years.

(2) All offences under this section shall be compoundable and shall be tried summarily in accordance with the procedure provided for summary trials in the Code of Criminal Procedure, 1973 (2 of 1974).

25. (1) Notwithstanding anything contained in any other law for the time being in force, the Central Government or the State Government may, by notification in the Official Gazette, authorise one or more persons who shall be competent to act under this Act: Prevention, detention and place of trial of offences under sections 4 and 6.

Provided that the person so authorised may, if he has reasonable ground for believing that any person has committed an offence under section 4 or section 6, may detain such person unless the accused person furnishes his name and address, and otherwise satisfies the officer detaining him that he will duly answer any summons or other proceedings which may be taken against him.

(2) Any person detained under sub-section (1) shall forthwith be taken before Magistrate to be dealt with according to law.

(3) Any person committing an offence under section 4 or section 6 shall be tried for such offence in any place in which he may be or which the State Government may notify in this behalf, as well as in any other place in which he is liable to be tried under any law for the time being in force.

(4) Every notification issued under sub-sections (1) and (3) shall be published in the Official Gazette, and a copy thereof shall be exhibited for information to the public in some conspicuous place or places as the State Government may direct.

(5) Every person authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

* * * * *

27. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under this Act shall be bailable. Offences to be bailable.

Composition of offences.

28. (1) Any offence committed under section 4 or section 6 may either before or after the institution of the prosecution be compounded by such officer authorised by Central Government or State Government and for an amount which may not exceed two hundred rupees.

Power to add any tobacco products in the Schedule.

30. The Central Government, after giving by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by like notification, add any other tobacco product in respect of which it is of opinion that advertisements are to be prohibited and its production, supply and distribution is required to be regulated under this Act, and thereupon the Schedule shall in its application to such products be deemed to be amended accordingly.

* * * * *

Power of Central Government to make rules.

31. (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) specify the form and manner in which warning shall be given in respect of cigarettes or other tobacco products under clause (o) of section 3;

(b) specify the maximum permissible nicotine and tar contents in cigarettes or other tobacco products under the proviso to sub-section (5) of section 7;

(c) specify the manner in which the specified warning shall be inscribed on each package of cigarettes or other tobacco products or its label under sub-section (2) of section 8;

(d) specify the height of the letter or figure or both to be used in specified warning or to indicate the nicotine and tar contents in cigarettes or other tobacco products under section 10;

(e) provide for the manner in which entry into and search of any premises is to be conducted and the manner in which the seizure of any package of cigarettes or other tobacco products shall be made and the manner in which seizure list shall be prepared and delivered to the person from whose custody any package of cigarettes or other tobacco products has been seized;

(f) provide for any other matter which is required to be, or may be, prescribed.

* * * * *

Act not to apply to cigarettes of other tobacco products which are exported.

32. Nothing contained in this Act shall apply to any cigarette or other tobacco products or package of cigarettes or other tobacco products which is exported:

Provided that nothing in this section shall be deemed to authorise the export of any package of cigarettes or other tobacco products, not containing the specified warning and indication of nicotine and tar contents to any country if the law in force in that country requires that the same or similar warning and nicotine and tar contents shall be specified on each package of cigarettes or other tobacco products.

Explanation.— For the purpose of this section, any cigarette or other tobacco products or package of cigarettes or other tobacco products shall be deemed to be exported before the commencement of this Act, if the necessary steps for export have already been taken notwithstanding that the actual export has not taken place.

* * * * *

RAJYA SABHA

A

BILL

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

(Dr. Sasmit Patra, M.P.)

MGIPMRND—1325RS(S3)—07-12-2021.

Bill No. XXV of 2020

THE CONSTITUTION (AMENDMENT) BILL, 2020

A

BILL

further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2020.

Short title and commencement.

(2) It shall come into force at once.

5 2. In the Seventh Schedule to the Constitution—

Amendment of the Seventh Schedule.

(i) In List II—State List, for entry 6, the following entry shall be substituted, namely:—

"6. Sanitation; hospitals and dispensaries subject to the provisions of entry 29A of List III.

(ii) In List III—Concurrent List, after entry 29, the following entry shall be inserted, namely:—

"29A. Public health"

5

STATEMENT OF OBJECTS AND REASONS

While the subject of healthcare, in general, is under the legislative competence of a State, the Parliament is empowered to legislate in respect of prevention of extension of infectious or contagious diseases from one state to another. The recent pandemic has amplified certain disconcerting gaps in our current Indian healthcare system. This necessitates more concerted efforts between Centre and States to ensure a finer healthcare system, in terms of accessibility, affordability, availability and quality.

The importance of the right to healthcare cannot be overstated. Right to Health has been held to be a fundamental right, under Article 21 of the Constitution, in a catena of decisions, by the Supreme Court of India and various High Courts. Additionally, certain similar notions have also been enshrined under articles 39(e), 41 and 43 of the Constitution, as a directive principle of state policy. Furthermore, Right to Health, as an inherent human right, has been affirmed by many international covenants including the Universal Declaration of Human Rights and International Covenant on Economic, Social and Cultural Rights. These divergent sources of the same right highlight the utmost duty of the government to necessarily secure a proper healthcare for its entire people.

However, the past experiences have shown a rising inequality, at a sub-national level, in respect to the standard of healthcare. The underlying reason for it arises out of the varying socio-economic factors prevalent across different states. This reflects a dire need of bringing the healthcare system of different states at an equal footing, as far as possible. This issue can only be remedied when a constitutional mandate is secured, for both Centre and state(s) together, to tackle healthcare related issues with a coordinated approach. This approach will also not burden the financial resources of the Centre in any new manner as this Bill only seeks to enable a better coordination framework for all stakeholders to work in.

Hence the Bill.

DR. VIKAS MAHATME

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

*** *** *** *** ***

List II—State List

*** *** *** *** ***

6. Public health and sanitation; hospitals and dispensaries.

*** *** *** *** ***

RAJYA SABHA

A

BILL

further to amend the Constitution of India.

(Dr. Vikas Mahatme, M.P.)

MGIPMRND—1323RS(S3)—07-12-2021.

Bill No. IX of 2020

THE CONSTITUTION (AMENDMENT) BILL, 2020

A

BILL

further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2020.

Short title and commencement.

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

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

Insertion of new article 21B.

"21B. The State shall provide unemployment benefits to all involuntarily unemployed graduates of the age of twenty-one to sixty years in such manner as the State may, by law, determine."

Right of graduates to unemployment benefits.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India, in one of the Directive Principles of State Policy contained in article 41, has made a provision for the State to make effective provisions, within its economic capacity and development, for securing right to work, education and to public assistance in cases of unemployment amongst others.

Despite increasing levels of education and broadening the scope of education, we haven't been able to provide for an effective mechanism to reduce unemployment in the country. Unemployment amongst the graduates still persists even after 70 years of the adoption of this provision.

Unemployment is the worst form of social injustice and the graduates are the biggest hopefuls when it comes to jobs. India is a welfare state and therefore, needs to ensure basic financial and other support to involuntarily unemployed graduates as may be determined by the State through a separate law.

Hence, this Bill.

V. VIJAYASAI REDDY

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for unemployment benefits to the unemployed graduates of the country. This Bill, if enacted, would involve expenditure from the Consolidated Fund of India. In respect of subjects falling under the jurisdiction of Central Government. However, it is not possible to access the actual financial expenditure likely to be incurred at this stage.

RAJYA SABHA

A

BILL

further to amend the Constitution of India.

(Shri V. Vijayasai Reddy, M.P.)

MGIPMRND—1315RS(S3)—07-12-2021.

Bill No. XX of 2020

THE CONSTITUTION (AMENDMENT) BILL, 2020

A

BILL

further to amend the Constitution of India.

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

1. This Act may be called the Constitution (Amendment) Act, 2020. Short title.
2. In article 12 of the Constitution, after the words, "Government of India" the words, "but does not include any religious institution administered or funded wholly or partly by the State" shall be inserted. Amendment of article 12.
3. After article 12 of the Constitution, the following articles shall be inserted, namely:— Insertion of new articles 12A and 12B.
 - "12A. All the rights enumerated in this Part shall be read harmoniously, and no right shall be so interpreted as to extinguish or abridge any other right. Harmonious coexistence of rights.

Residual rights
of the people.

"**12B.** The enumeration in this Part of certain rights, shall not be construed to deny or abridge other rights retained by the people".

Amendment of
article 25.

4. In article 25 of the Constitution,

(a) for the marginal heading, the following shall be substituted, namely:—

"Freedom of religion and the practice thereof by means of rituals, rites 5
festivals, customs, traditions etc."

(b) for sub-clause (b) of clause (2) the following shall be substituted, namely:—

"(b) providing for:

(i) the access to the Hindu religious institutions of public character
to call classes and sections of Hindus with due regard to the religious 10
customs of each such institution;

(ii) the management of the Hindu religious institutions and
administration of their properties through a body consisting of religious
persons and representatives of Hindus, elected for the purpose for each 15
such institution or for a group of such institutions, as may be prescribed
in that behalf by or under any law made by parliament, with the State
exercising no control over the management of such institutions or
administration of their properties;

(iii) the appropriation of the funds, properties and all resources of
the Hindu religious institutions only for the purposes of maintenance and 20
development of the Hindu religious institutions; for the general religious
well being of the Hindus and Hindu community and for the preservation,
promotion and propagation of Hinduism;

(iv) the prohibition of non-Hindus from taking part in the
management, administration or any other activity whatsoever, of the Hindu 25
religious institutions and their properties;

(v) the protection by the State of all Hindu religious institutions and
their properties from encroachment of illegal destruction;

(vi) the creation of national, state, regional, district and local level
Hindu Dharma Sabhas consisting of both religious and elected 30
representatives of Hindu religious institutions as may be prescribed in
that behalf by or under any Law made by Parliament, for the purposes of
guidance, preservation, promotion and propagation of Hinduism;"

(c) after clause (2) the following clause shall be inserted, namely:—

"(3) Subject to public order, all persons shall have the right to celebrate 35
religious festivals, observe cultural practices and take part in sporting activities."

Amendment of
article 26.

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

"(2) The State shall not control, administer or manage, whatsoever, any institution
including its properties, established or maintained of religious or charitable purposes 40
by a religion or any section thereof.

(3) In making any law providing for the compulsory acquisition of any property
of a religious or charitable institution established or maintained by a religion or
any section thereof, referred to in clause (1), the State shall ensure that the amount fixed by
or determined under such law for the acquisition of such property is such as would 45
not restrict or abrogate the right guaranteed under that clause."

STATEMENT OF OBJECTS AND REASONS

Amendment of article 12, insertion of a new articles 12A and 12B, and a new clause (3) in article 25 aims to protect indigenous religious festivals, customs and practices from undue denial, curtailment or interference. The indigenous religious, spiritual and cultural practices of Hinduism have evolved over several millennia with no one founder, no specific set of binding scriptures and no central ecclesiastical organisation. Hindu customs and rituals while subtly conveying ethical, metaphysical and philosophical values also bind families and communities together. Hinduism acknowledges vast diversity within humans and accordingly evolved a system which allowed diversity in forms of devotions, worship and traditions. These ancestral traditions do not necessarily find justification in any particular scripture but from the lifeblood of popular amorphous religions and spiritual traditions collectively known as Hinduism. Hindu religious and cultural practices are a result of the collective wisdom and experience of thousands of generations of people of this sacred land.

2. However, there are some aspects of the Constitution that give space to forces to deracinate people from their indigenous religious and cultural moorings,—

Firstly, by subjecting indigenous traditions and customs that have come into being over several millennia of unbroken and unwritten practice to the test of 'essential practice' of religion, which would lead to Hinduism falling woefully short as opposed to the religions of the Book, where the Book defines the essentials etc.

Secondly, since Hindu religious and charitable endowments have been taken over by Governments, they are regarded as effectively being part of 'the State' as defined by article 12 of the Constitution, and as a result any Hindu religious custom or practice can be challenged as violative of one or other fundamental rights.

Thirdly, article 25(2) (b) which provides for 'social welfare and reform' was intended by the framers of the Constitution as an antidote to certain untenable social discrimination in the Hindu society but was never meant to be an enabler for legislative or judicial interference or destruction of ancient religious customs, festivals and practices of Hindus.

Fourthly, the Constitution gives a bouquet of fundamental rights and freedoms, all of which have been designed to harmoniously co-exist. Therefore, it is anathema to interpret one set of fundamental rights and freedoms in a manner that extinguishes or abridges the other set of fundamental rights and freedoms.

Fifthly, the 'morality' that the framers of the Constitution envisaged in articles 19, 25 and 26 was the societal morality which is entirely different from the construct of 'constitutional morality'. The unwarranted interference in the age old indigenous festivals, customs and practices not only disrupts social and cultural cohesion and fabric but also generates avoidable social strife as happened in the cases of Jallikattu, Dahi Handi, Sabarimala, Shani Mandir, Kambala etc.

3. Fundamental rights as enumerated in Part-III of the Constitution, are essentially restrictions imposed on the State from unduly interfering in the lives and activities of the people. The people possess all freedoms and rights, only a certain of which are enumerated in the Constitution. The enumeration of certain rights and freedoms in our Constitution does not mean that the people do not possess or can be deprived of those that are not mentioned therein.

4. United Nations Declaration on the Rights of Indigenous Peoples-2007 (UNDRIP) to which India is a signatory, imposes certain obligations on Member-States to Protect, preserve, nurture and promote indigenous religious, spiritual, cultural, traditional and knowledge systems by suitable legislative, governance and public policy interventions. Article 253 empowers Parliament to make laws for the whole of India on any subject to implement international conventions etc.

5. Amendment of sub-clause (b) of clause (2) of articles 25 and insertion of two new clauses in article 26 aims to prohibit State control and management of Hindu temples and religious institutions, and to facilitate their management by Hindu society in a democratic manner.

6. Article 26 bestows fundamental right on all religions, irrespective of majority or minority, to establish and maintain institutions for religious and charitable purposes, to manage their own affairs, and to own, acquire and administer property thereof. In a catena of judgements, the Supreme Court reiterated the same.

7. A secular State by definition cannot control and manage religious institutions that too of only one religion. However, most of the Hindu charitable and religious institutions have long been and are regularly being taken over by the secular State Governments. This completely cripples the resource ability of Hindu communities in being self-sufficient and in presenting a unified front to address and find solutions to the religious problems of the Hindu community.

8. Despite the constitutional provisions and judicial decisions, Hindu temples are routinely taken over by the State Governments. The State control of Hindu religious institutions is doubly disadvantageous for Hindus in that they have not only lost control of their religious institutions to the Government but because of that very reason of their religious institutions being under the control of Government their centuries-old religious customs, festivals and practices also get challenged and interfered.

9. Further, the State Government have been diverting properties of Hindu religious institutions for secular purposes without paying adequate compensation. For full enjoyment of the right guaranteed by article 26, it is necessary to ensure payment of adequate compensation, if, any property of a religious or charitable institution established or maintained by a religion or any section thereof, is acquired by the State.

The Bill seeks to achieve the above objectives.

Y.S. CHOWDARY

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

* * * * *

PART III

FUNDAMENTAL RIGHTS

General

12. Definition.—In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

* * * * *

Right to Freedom of Religion

25. Freedom of conscience and free profession, practice and propagation of religion. — (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I. —The wearing and carrying of *kirpans* shall be deemed to be included in the profession of the Sikh religion.

Explanation II. —In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

26. Freedom to manage religious affairs.—Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with law.

* * * * *

RAJYA SABHA

A

BILL

further to amend the Constitution of India.

(Shri Y. S. Chowdary, M.P.)

MGIPMRND—1351RS(S3)—07.12.2021.

Bill No. XXVI of 2020

THE CONSTITUTION (AMENDMENT) BILL, 2020

A

BILL

further to amend the Constitution of India.

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

1. This Act may be called the Constitution (Amendment) Act, 2020. Short title and commencement.
2. It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.
3. Article 248 of the Constitution shall be omitted. Omission of article 248.

Amendment of
Seventh
Schedule.

4. In the Seventh Schedule to the Constitution,—

(a) in List I—Union List, entry 97 shall be omitted;

(b) in List II—State List,

(i) After entry 18, the following entry shall be inserted, namely;—

"18A Education including technical education, medical education 5
and Universities, subject to the provisions of entries 63, 64, 65 and 66 of
List—I;"

(ii) After entry 66, the following entry shall be inserted, namely;—

"67. Any other matter not enumerated in List-I or List-III including
any tax not mentioned in either of those lists." 10

(c) in List III—Concurrent List, entry 25, shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The forefathers of our Constitution had a vision for a strong State and a strong Centre. India is a federal State. By reserving all the residuary subjects in the Union List, the States are not empowered to function even in the subjects allotted to them under the State list. In the Constitution of Australia, the residuary powers are vested with the States. In the United States of America also, the residuary powers have gone towards the States.

India is a living example of unity in diversity. Dr. Ambedkar, the founder of Constitution of India had said: "It is agreed that our Constitution, notwithstanding many provisions which are contained in it whereby the Centre has been given powers to override the provinces, nonetheless is a federal Constitution and when we say that the Constitution is a federal Constitution, it means that the provinces are as sovereign in their field, which is left to them by the Constitution, as the Centre is in its field which is assigned to them."

The Bill provides for the transfer of residuary subjects from the Union List to the State List. Further, education including technical education, medical education and Universities are the subjects which were originally in the State List, when the Constitution was adopted in 1950. However, these subjects were transferred to the Concurrent List by the Constitution 42nd Amendment Act, 1976. With the result, when many States are having their own system of education, thrusting on them common syllabus, common entrance test and other regulations create problems for the States and the people at large.

Hence, this Bill.

VAIKO

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

* * * * *

248. Residuary powers of legislation.—(1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

* * * * *

SEVENTH SCHEDULE (Article 246)

List I—Union List

* * * * *

97. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.

* * * * *

List III—Concurrent List

* * * * *

25. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.

* * * * *

RAJYA SABHA

A

BILL

further to amend the Constitution of India.

(Shri Vaiko, M.P.)

MGIPMRND—1321RS(S3)—07-12-2021.

Bill No. XXIV of 2020

THE CONSTITUTION (AMENDMENT) BILL, 2020

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act shall be called the Constitution (Amendment) Act, 2020.

Short title,
extent and
commencement.

(2) It shall extend to the whole of India.

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

5 2. For article 130 of the constitution, the following article shall be substituted, namely:—

Substitution of
new article for
article 130.

“130. (1) The Supreme Court established under Clause (1) of Article 124 shall comprise of a Constitution Bench sitting at New Delhi and four Permanent Regional Benches for the northern, southern, eastern and western regions, which shall sit at New Delhi, Chennai, Kolkata and Mumbai respectively.

Constitution
Bench and
Permanent
Regional
Benches of the
Supreme Court.

10 (2) The Constitution Bench at New Delhi shall hear only cases which are of Constitutional importance.

Explanation.—The Chief Justice of India shall have exclusive power to determine which case is to be classified as a case of Constitutional importance.

(3) The four Permanent Regional Benches of the Supreme Court shall exercise the full jurisdiction of the Supreme Court of India, except over cases to be heard by the Constitution Bench. 5

(4) The territorial jurisdiction of the Permanent Regional Benches of the Supreme Court shall be as follows:—

(i) the northern Regional Bench of the Supreme Court at New Delhi shall deal with all cases, except cases to be heard by the Constitution Bench, arising out of the States of Uttar Pradesh, Uttarakhand, Rajasthan, Punjab, Haryana, Himachal Pradesh and the Union Territories of Jammu and Kashmir, Ladakh, Delhi and Chandigarh; 10

(ii) the southern Regional Bench of the Supreme Court at Chennai shall deal with all cases, except cases to be heard by the Constitution Bench, arising out of the States of Tamil Nadu, Kerala, Karnataka, Andhra Pradesh, Telangana and the Union Territories of Puducherry and Lakshadweep; 15

(iii) the eastern Regional Bench of the Supreme Court at Kolkata shall deal with all cases, except cases to be heard by the Constitution Bench, arising out of the States of West Bengal, Bihar, Odisha, Jharkhand, Assam, Sikkim, Arunachal Pradesh, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Union Territory of Andaman and Nicobar Islands; and 20

(iv) the western Regional Bench of the Supreme Court at Mumbai shall deal with all cases, except cases to be heard by the Constitution Bench, arising out of the States of Maharashtra, Madhya Pradesh, Chhattisgarh, Gujarat, Goa and Union Territory of Dadra and Nagar Haveli and Daman and Diu: 25

Provided that the Chief Justice of India may, if in the interest of administration of justice, transfer any case pending before any Permanent Regional Bench to any other Permanent Regional Bench or the Constitution Bench:

Provided further that when cases involving the same substantial question of law or the same subject matter are pending before two or more Regional Benches, the Chief Justice of India may direct that all such cases be heard by any one of the Regional Benches. 30

(5) The Chief Justice of India shall nominate Judges of the Supreme Court to sit at the Constitution Bench and the Permanent Regional Benches: 35

Provided that Chief Justice of India shall nominate not less than six Judges of Supreme Court in each of the Permanent Regional Benches:

Provided that while nominating Judges to the Permanent Regional Benches, the Chief Justice shall give preference to Judges whose parent High Court or erstwhile place of practice or residence prior to appointment as Judge, is within the territorial jurisdiction of that Permanent Regional Bench: 40

Provided further that nothing contained herein shall prevent the Chief Justice from nominating any Judge of the Supreme Court to the Constitution Bench or any of the Permanent Regional Benches on the basis of seniority, or if it is otherwise necessary to do so in the interest of administration of justice. 45

(6) Upon coming into force of this article, all cases currently pending before the Supreme Court shall be forthwith distributed to the Permanent Regional Benches or the Constitution Bench as the case may be, in accordance with the provisions of this article, and in a manner to be determined by the Central Government in consultation with the Chief Justice of India.

5

STATEMENT OF OBJECTS AND REASONS

The Supreme Court of India currently hears all appeals from the High Courts and Tribunals across India, apart from exercising original jurisdiction and writ jurisdiction under Article 32 of the Constitution of India. When the framers of our Constitution drafted Article 108A of the Draft Constitution, which was enacted and renumbered as Article 130, their intention was that in case the capital is shifted to any place other than Delhi, or if it became necessary to have “circuit Courts or regional Benches” of the Supreme Court, there should be a provision in the Constitution to enable such a need. Article 130 therefore empowers the Chief Justice of India to establish regional benches of Supreme Court in consultation with the President for the purpose of effective delivery of justice.

The framers of the Constitution, particularly Dr. B.R. Ambedkar, while debating Article 108-A of the Draft Constitution, which ultimately was enacted as Article 130, considered it appropriate to entrust the powers of establishment of Regional Benches to the Chief Justice of India. Since the enactment of our Constitution, the population of the country has grown over four times, and the docket of the Supreme Court has grown about 10,000 times. This is also because of the rapid economic and social growth of our nation.

For decades now, there has been a widespread demand from various quarters for the establishment of Permanent Regional Benches of the Supreme Court. Many representations have been made from various Bar Associations and litigants from across the country. The people’s representatives in Parliament have also often raised this issue of Permanent Regional Benches of Supreme Court. The Standing Committees of Parliament recommended the setting up of Regional benches of the Supreme Court in 2004, 2005, and 2006. The Law Commission in its Report No. 229 dated 05.08.2009 to the Ministry of Law and Justice, Government of India has also emphasised the need for the establishment of “Cassation Benches” of the Supreme Court at New Delhi, Mumbai, Chennai and Kolkata.

Access to justice is a fundamental right of each citizen. Dispensation of justice to all citizens is a sovereign function. The advantages of setting up Regional Benches are many fold: Presently, access to the Supreme Court is restricted to only those with the economic means to travel to Delhi and afford a lawyer in Delhi. This effectively rules out a large percentage of the population who do not have the economic means, and therefore can litigate only up to the High Court. In some cases, such as some categories of Writ Petitions, the case is heard at the first instance itself by a Division Bench of the High Court, and appeal against the same is only to the Supreme Court. Therefore, a person, who cannot afford to go to Delhi, or afford the fees of the lawyers at Delhi, which is invariably higher due to demand, is left without an appellate remedy. Therefore, litigation at the Supreme Court is increasingly becoming available only to the affluent class, and the economically weaker sections of society are deprived of access to the Apex Court.

Further, setting up of regional Benches of the Supreme Court would also increase the strength of the Bench of the Supreme Court. Presently, the ratio of number of Supreme Court Judges to the population of the country and the docket of the Court is miniscule. There are only 34 Judges for a country with a population of 133 crores. Having Regional Benches would necessarily increase the Bench strength of the Supreme Court as well. This would need a separate amendment to the Supreme Court (Number of Judges) Act, 1956.

One of the regular reasons for adjournment at the Supreme Court is that the counsels travel from various parts of the country for hearing and cannot make it to the hearing for various reasons. Having regional Benches and splitting cases among them with more Judges to hear them will certainly aid in the effective delivery of Justice to all sections of citizens. Further, the litigant spends a lot of money on the travel and accommodation of the lawyers.

Each time a case is adjourned for want of a lawyer, it is the litigant who bears the expense. Therefore if permanent regional benches are established, it would ease the burden on the litigant.

The proposed amendment divides the Supreme Court into one Constitution Bench at the capital, and four regional Benches. The Constitution Bench would hear important constitutional cases only. The discretion to classify a case as a constitutional case has been conferred on the Chief Justice of India. Generally, constitutional cases are heard and decided by a Bench of five Judges or more. Regional Benches have been empowered under this amendment to exercise the full jurisdiction of the Supreme Court in all matters other than Constitution cases.

For the past seventy years, since the enactment of the Constitution, no Chief Justice has been able to exercise the power under Article 130, due to the disinclination of the full Court of the Supreme Court on occasions, due to various reasons. It is time for Parliament to hear the voice of the people, and answer their fervent cries to open the doors of justice to all sections of society. Access to Justice is not the preserve of the rich, but the right of every person in this great nation.

The Bill seeks to achieve these objectives.

P. WILSON

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for establishment of four Permanent Regional Benches of the Supreme Court at New Delhi, Chennai, Kolkata and Mumbai. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India for creation of Regional Benches of Supreme Court at Chennai, Kolkata and Mumbai which includes land cost, construction, infrastructure, staff and other expenditure. It is likely to involve an initial expenditure of rupees six hundred crores for establishment of Benches including infrastructure and annual recurring expenditure of about rupees one hundred crores from the Consolidated Fund of India.

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

* * * * *

130. The Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint. Seat of Supreme Court.

* * * * *

RAJYA SABHA

A
BILL
further to amend the Constitution of India.

(Shri P. Wilson, M.P.)

MGIPMRND—1355RS(S3)—07-12-2021.

Bill No. XXXIV of 2021

THE CONSTITUTION (AMENDMENT) BILL, 2021

A

BILL

further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2021.

Short title and commencement.

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

2. In Tenth Schedule to the Constitution—

Amendment of Tenth Schedule.

(a) In clause (1) of paragraph 6 after the words "...the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House, the following words shall be inserted, namely:—

Amendment of para 6.

10 "within a period of 30 days from the date on which the said question arises but not later than a period of 3 months";

(b) In Paragraph 6, the following new paragraph shall be inserted, namely:—

"(6A) If the question as to whether, a Member of a House has become subject to disqualification under this Schedule, is not decided by the Chairman or, as the case may be, the Speaker of such House, within the period stipulated in Paragraph 6 of the Schedule, the disqualification proceedings against said Member of the House shall be deemed to have been lapsed." 5

STATEMENT OF OBJECTS AND REASONS

The amendment of Tenth Schedule is necessitated primarily on account of numerous cases where either the Speaker or Chairman, as the case may be, of either of a House of Parliament or the Legislative Assembly or the Legislative Council of a State, have left the question of disqualification of Member(s) undecided for an unreasonably long period after filing of disqualification petition against such member(s) of the House.

The power to decide the question as to disqualification of a Member of a given House, is a constitutional obligation which the Speaker or the Chairman, as the case may be, has to discharge, in order to give effect to the provisions of the Tenth Schedule of the Constitution of India, which was inserted to check the menace of defection of members elected to the Legislature belonging to respective political parties.

The Hon'ble Supreme Court in a recent judgement in *Keisham Meghachandra Singh v. Manipur Legislative Assembly 2020 SCC Online SC 55* has ruled that a person who had incurred disqualification for defection does not deserve to be a member of the Legislature even for a single day and disqualification petitions under the Tenth Schedule should be decided within three months.

As earlier held by 7-Judges Constitution Bench of the Hon'ble Supreme Court in *Kihoto Hollohan v. Zachillhu 1992 Supp (2) SCC 651*, the scope of judicial review in case of decision of the Speaker or Chairman of the House of Legislature is limited, in view of the finality clause in Paragraph 6 of the Tenth Schedule. That apart, the power of judicial review is not available at the stage prior to making of decision by the Speaker or Chairman of the given House, nor at an interlocutory stage of the disqualification proceedings.

Accordingly, it is necessary to amend the Tenth Schedule to the extent of providing a fixed time limit to decide the question of disqualification of Member(s) of the House of Parliament or Legislative Assembly of a State.

The Bill seeks to achieve the aforesaid objectives.

Hence, this Bill.

KTS TULSI

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

TENTH SCHEDULE

6. Decision on questions as to disqualification on ground of defection.—

(1) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House and his decision shall be final:

Provided that where the question which has arisen is as to whether the Chairman or the Speaker of a House has become subject to such disqualification, the question shall be referred for the decision of such member of the House as the House may elect in this behalf and his decision shall be final.

(2) All proceedings under sub-paragraph (1) of this paragraph in relation to any question as to disqualification of a member of a House under this Schedule shall be deemed to be proceedings in Parliament within the meaning of article 122 or, as the case may be, proceedings in the Legislature of a State within the meaning of article 212.

RAJYA SABHA

A
BILL
further to amend the Constitution of India.

(Shri K.T.S. Tulsi, M.P.)

MGIPMRND—1337RS(S3)—07.12.2021.

AS INTRODUCED IN THE RAJYA SABHA
ON THE 3RD DECEMBER, 2021

Bill No. XXIX of 2021

THE CRIMINAL LAWS (AMENDMENT) BILL, 2021

A

BILL

*further to amend the Indian Penal Code, 1860; the Code of Criminal Procedure, 1973
and the Indian Evidence Act, 1872.*

WHEREAS the Constitution of India guarantees to all persons the right to life and personal liberty, the equal protection of laws and prohibits discrimination on the ground of sex and provides a special provision for the advancement of socially backward classes of citizens;

AND WHEREAS it is deemed necessary and expedient to enact legislation for the protection of these rights guaranteed by the Constitution;

AND WHEREAS the Law Commission of India *vide* its 172nd Report dated 13th March, 2000 after considering all aspects had recommended that sexual offences should be made gender neutral;

AND WHEREAS a Bill to amend the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872 to provide for gender neutrality for numerous penal sections was introduced in the House of the People in 2012 and was referred to the Parliamentary Standing Committee on Home Affairs for examination followed by the Introduction of the Criminal Law (Amendment) Bill, 2012 in the House of People on the 4th December, 2012 preceded by promulgation of the Criminal Law (Amendment) Ordinance, 2013;

AND WHEREAS after the said Ordinance having been lapsed, there have been a spate of incidents resulting in injuries, psychological trauma and death of persons at the hands of offenders belonging to either gender or sex on account of various sexual offences & exploitation committed against them;

AND WHEREAS the Hon'ble Supreme Court in the case of National Legal Services Authority v. Union of India, (2014) 5 SCC 438 had afforded recognition to Transgender Persons as the 'Third Gender';

AND WHEREAS the Hon'ble Supreme Court in the case of Criminal Justice Society of India v. Union of India & Ors., W.P.(C) No. 1262/2018 *vide* its Order dated 12th November, 2018 found merit in the plea of the Petitioner praying for gender neutral rape laws and desired that the Parliament may consider the same;

AND WHEREAS the General Assembly of the United Nations adopted the Universal Declaration of Human Rights, 1948 to give effect to its commitment to protect the human rights of equality & protection from discrimination of all individuals;

AND WHEREAS the Republic of India, being a signatory to and having ratified the aforesaid Declaration, it is expedient to give effect to the said Declaration.

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

CHAPTER I

PRELIMINARY

Short title and commencement.	1. (1) This Bill may be called the Criminal Laws (Amendment) Bill, 2021.	5
	(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.	

CHAPTER II

AMENDMENTS TO THE INDIAN PENAL CODE

Amendment of section 8.	2. In section 8 of the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), for the words "male or female", the words 'male, female or transgender' be substituted.	10 45 of 1860.
Insertion of new section 8A. Modesty.	3. After section 8 of the Penal Code, the following section shall be inserted, namely:— "8A. Modesty is an attribute which attaches to the personality with regard to commonly held belief of morality, decency and integrity of speech and behaviour, in any man, woman or a transgender."	15
Substitution of section 10. "Man". "Woman". "Transgender".	4. For the section 10 of the Penal Code, the following section shall be substituted namely:— "10. The word "man" denotes a male human being of any age; the word "woman" denotes a female human being of any age; and the word "others" denotes a human being including but not limited to transgender of any age."	20

	<p>5. For section 354 of the Penal Code, the following section shall be substituted, namely:—</p>	<p>Substitution of new section for section 354.</p>
5	<p>“354. Whoever assaults or uses criminal force to any person, intending to outrage or knowing it to be likely that it will thereby outrage the modesty of that person shall 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.”</p>	<p>Assault or use of criminal force to any person with intent to outrage modesty.</p>
	<p>6. In section 354A of the Penal Code:—</p>	<p>Amendment of section 354A.</p>
	<p>(i) for the words “a man” and “any man who”, the word “whoever” shall be substituted; and</p>	
10	<p>(ii) for the word “a woman”, the words “any person” shall be substituted, wherever they occur.</p>	
	<p>7. For section 354B of the Penal Code, the following section shall be substituted, namely:—</p>	<p>Substitution of new section for section 354B.</p>
15	<p>"354B. Whoever assaults or uses criminal force to any person or abets such act with the intention of disrobing or compelling that person to be naked, 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, shall also be liable to fine."</p>	<p>Assault or use of criminal force to any person with intent to disrobe.</p>
	<p>8. In section 354C of the Penal Code, :—</p>	<p>Amendment of section 354C.</p>
	<p>(i) for the words "any man", the word "whoever" shall be substituted; and</p>	
20	<p>(ii) for the word "a woman", the words "any person" shall be substituted, wherever they occur.</p>	
	<p>9. For section 354D of the Penal Code, the following section shall be substituted, namely:—</p>	<p>Substitution of new section for section 354D.</p>
25	<p>"354. (1) Whoever— (i) Follows any person and contacts, or attempts to contact such person to foster personal interaction repeatedly despite a clear indication of disinterest by such person; or</p>	<p>Stalking.</p>
	<p>(ii) Monitors the use by any person of the internet, email or any other form of electronic communication, commits the offence of stalking:</p>	
30	<p>Provided that such conduct shall not amount to stalking if whoever pursued it proves that</p>	
	<p>(i) it was pursued for purpose of preventing or detecting crime and whoever accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or</p>	
35	<p>(ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or</p>	
	<p>(iii) in the particular circumstances such conduct was reasonable and justified.</p>	
40	<p>(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine."</p>	

Substitution of
new section
for section
375.

10. For section 375 of the Penal Code, the following section shall be substituted, namely:—

Rape.

"375. Any person is said to commit rape if that person.

(a) penetrates their genital, to any extent, into the genital, mouth, urethra or anus of any other person or makes that person to do so with them or any other person; or 5

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the genital, the urethra or anus of any other person or makes that person to do so with them or any other person; or

(c) manipulates any part of the body of any other person so as to cause penetration into the genital, urethra, anus or any part of body of such person or makes 10 that person to do so with them or any other person; or

(d) applies their mouth to the genital, anus, urethra of any other person or makes that person to do so with them or any other person, under the circumstances falling under any of the following seven descriptions:

First.—Against the other person's will. 15

Secondly.—Without the other person's consent.

Thirdly.—With the other person's consent, when that person's consent has been obtained by putting them or any person in whom they are interested, in fear of death or of hurt.

Fourthly.—With the other person's consent, when the man knows that he is not that 20 person's husband and that the person's consent is given because they believe that he is another man to whom they are or believe themselves to be lawfully married.

Fifthly.—With the other person's consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the or the administration by the person 25 personally or through another of any stupefying or unwholesome substance, the other person is unable to understand the nature and consequences of that to which they give consent.

Sixthly.—With or without the other person's consent, when they are under eighteen years of age.

Seventhly.—When other person is unable to communicate consent. 30

Explanation 1.—For the purposes of this section, the word genital denotes penis and vagina and; vagina shall also include *labia majora*.

Explanation 2.—Consent means an unequivocal voluntary agreement when any other person by words, gestures or any form of verbal or non-verbal communication, communicates 35 willingness to participate in the specific sexual act.

Explanation 3.—For the purposes of this section, the definition of gender as under section 8 of the Penal Code shall be applicable wherein the pronoun 'he' and its derivatives are used for any person, whether man, woman or transgender:

Provided that a person who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity. 40

Exception 1.—A medical procedure intervention shall not constitute rape.

Exception 2.—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape."

11. After section 375 of the Penal Code, the following section shall be inserted, namely:—

Insertion of new section 375A.

"375A. The following acts shall constitute the offence of sexual assault, if any person:—

Sexual assault and punishment of sexual assault.

5 (a) intentionally touches the genital, anus or breast of the person or makes the person touch the vagina, penis, anus or breast of that person or any other person, without the other person's consent except where such touching is carried out for proper hygienic or medical purposes; or

10 (b) uses words, acts or gestures towards another person which creates an unwelcome actionable threat of sexual nature or result in any unwelcome advance;

and shall be punished with rigorous imprisonment that may extend to three years, or with fine, or both.

Explanation 1.—For the purposes of this section, the word genital denotes penis and vagina and vagina shall also include labia majora.

15 *Explanation 2.*—Consent means an unequivocal voluntary agreement when any other person by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act.

20 *Explanation 3.*—For the purposes of this section, the word touches means touching of sexual nature without the consent of the victim and in absence of a reasonable belief that the victim has consented for the same."

12. For section 376 of the Penal Code, the following section shall be substituted, namely:—

Substitution of new section for section 376.

25 "376. (1) Whoever, except in the cases provided for in sub-section (2), commits rape, 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.

Punishment for rape.

(2) Whoever,

(a) being a police officer, commits rape.

30 (i) within the limits of the police station to which such police officer is appointed; or

(ii) in the premises of any station house; or

(iii) on any person in such police officer's custody or in the custody of a police officer subordinate to such police officer; or

35 (b) being a public servant, commits rape on any person in such public servant's custody or in the custody of a public servant subordinate to such public servant; or

(c) being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or

40 (d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or

(e) being on the management or on the staff of a hospital, commits rape on any person in that hospital; or

(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards any person, commits rape on such person; or

(g) commits rape during communal or sectarian violence; or

(h) commits rape on a woman knowing her to be pregnant; or

(j) commits rape, on any person incapable of giving consent; or 5

(k) being in a position of control or dominance over any person, commits rape on such person; or

(l) commits rape on any person suffering from mental or physical disability; or

(m) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of any person; or 10

(n) commits rape repeatedly on the same person,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine. 15

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

(a) armed forces means the naval, military and air force and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government; 20

(b) hospital means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

(c) police officer shall have the same meaning as assigned to the expression police under the Police Act, 1861; 25 5 of 1861

(d) women's or children's institution means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children.

(3) Whoever, commits rape on any person under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine: 30

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim: 35

Provided further that any fine imposed under this sub-section shall be paid to the victim."

Amendment of section 376A.

13. In section 376A of the Penal Code, for the word "woman", the word person shall be substituted, wherever they occur.

Substitution of section 376C.

14. For section 376C of the Penal Code, the following section shall be substituted, namely:— 40

Sexual intercourse by a person in authority.

"376C. Whoever, being—

(a) in a position of authority or in a fiduciary relationship; or

(b) a public servant; or

(c) superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or 45

(d) on the management of a hospital or being on the staff of a hospital, abuses such position or fiduciary relationship to induce or seduce any person either in the person's custody or under the person's or present in the premises, to have sexual intercourse with that person, such sexual intercourse not amounting to the offence of rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.

Explanation 1.—In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375.

Explanation 2.—For the purposes of this section, Explanation 1 to section 375 shall also be applicable.

Explanation 3.—"Superintendent", in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates.

Explanation 4.—The expressions "hospital" and "women's or children's institution" shall respectively have the same meaning as in Explanation to sub-section (2) of section 376."

15. In section 376D of the Penal Code, for the words "a woman", the words "any person" shall be substituted. Amendment of section 376D.

CHAPTER III

AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973

16. In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Criminal Code), in section 154, in the provisos to sub-section (1), after the word, figure and letter "section 354D", the word, figure and letter "section 375A" shall be inserted, wherever they occur. Amendment of section 154.

17. In section 161 of the Criminal Code, in the second proviso to sub-section (3), after the word, figure and letter "section 354D", the word, figure and letter "section 375A" shall be inserted. Amendment of section 161.

18. In section 164 of the Criminal Code, in clause (a) of sub-section (5A), after the word, figure and letter "section 354D", the word, figure and letter "section 375A" shall be inserted. Amendment of section 164.

19. In the First Schedule to the Criminal Code, under the heading "I.- OFFENCES UNDER THE INDIAN PENAL CODE",— (a) after the entries relating to section 374, the following entry shall be inserted, namely:— Amendment of First Schedule.

1	2	3	4	5	6
375A	Sexual assault.	Rigorous imprisonment which may extend to 3 years or with fine, or both	Cognizable	Bailable	Court of Session.

CHAPTER IV

AMENDMENTS OF THE INDIAN EVIDENCE ACT, 1872

20. In section 53A of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), after the word, figure and letter "section 354D", the word, figure and letter "section 375A" shall be inserted. Amendment of section 53A.

Amendment
of section
114A.

21. In section 114A of the Evidence Act, after the words "in a prosecution for", the words "sexual assault under section 375A and" shall be inserted.

Amendment
of section
146.

22. In section 146 of the Evidence Act, in the proviso, after the words "Provided that in a prosecution for an offence under", the word, figure and letter "section 375A", shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The idea of India, as envisaged by our founding fathers, is of one land embracing many, a nation that may endure differences of caste, creed, colour, conviction, culture, cuisine, costume and custom and yet continue to maintain its composite and pluralistic democracy. It's the underlying seamless web that unites India as a Sovereign, Socialist, Secular, Democratic Republic.

The Constitution of India guarantees to all persons the right to life and personal liberty, the equal protection of laws and prohibits discrimination on the ground of sex and provides a special provision for the advancement of socially backward classes of citizens.

It is imperative to note that transgender persons including homosexuals and bisexuals and men are excluded from the point of view of victims of sexual exploitation, assault or harassment and, from protection of rape, etcetera, under the penal laws of the country despite an impending need for the same.

The intention of the Bill is not to undermine the experiences of women subjected to rape and discrimination. But, as society matures, we must develop empathy for all and this includes male and transgender rape victims also. We need to break our silence on the issue of male and transgender rape and questioning social constructs that glorify machismo, reduce men and transgender to stereotypes and force them to mask their feelings. This Bill is an endeavor to bring laws relating to sexual exploitation, harassment and assault to be in-step with changing social morality.

Pursuant to the resolutions of the United Nations and the Universal Declaration of Human Rights, 1948, there has been a steady stream of countries that have amended the laws to make sexual offences gender neutral in line with the Universal Declaration of Human Rights, 1948. More than 63 countries have already given effect to gender neutrality in relation to sexual offences by amending their Penal Laws to bring them in conformity with their commitment to the United Nations and the mankind. It cannot be forgotten that discrimination is the antithesis of equality and recognition of equality in its truest sense will foster the dignity of every individual. The lack of acknowledgment of male rape has impacted the ability of victims to recognize their own victimization.

Therefore, this Bill.

K.T.S. TULSI

ANNEXURE

EXTRACTS FROM THE INDIAN PENAL CODE, 1860

(45 OF 1860)

	*	*	*	*	*
Punishment of offences committed within India.	2. Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within 5*[India]6****				
	*	*	*	*	*
Gender.	8. The pronoun "he" and its derivatives are used of any person, whether male or female.				
	*	*	*	*	*
“Man”. “Woman”.	10. The word "man" denotes a male human being of any age; the word "woman" denotes a female human being of any age.				
	*	*	*	*	*
Assault or criminal force to woman with intent to outrage her modesty.	354. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will there by outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.				
Sexual harassment and punishment for sexual harassment.	354A. (1) A man committing any of the following acts— (i) physical contact and advances involving unwelcome and explicit sexual overtures; or (ii) a demand or request for sexual favours; or (iii) showing pornography against the will of a woman; or (iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment. (2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both. (3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.				
Assault or use of criminal force to woman with intent to disrobe.	354B. Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.				
Voyeurism.	354C. Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall				

also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

Explanation 1.—For the purpose of this section, "private act" includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

Explanation 2.—Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

354D. (1) Any man who,—

Stalking.

(i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

(ii) monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking;

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

(i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

(ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

(iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

* * * * *

375. [2]A man is said to commit rape if he—

Rape.

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

under the circumstances falling under any of the following seven descriptions:

First—Against her will.

Secondly—Without her consent.

Thirdly—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly—With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly—With or without her consent, when she is under eighteen years of age.

Seventhly—When she is unable to communicate consent.

Explanation 1.—For the purposes of this section, vagina shall also include *labia majora*.

Explanation 2.—Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1.—A medical procedure or intervention shall not constitute rape.

Exception 2.—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.

Punishment
for rape.

376. (1) Whoever, except in the cases provided for in sub-section (2), commits rape, 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) Whoever,

(a) being a police officer, commits rape,

(i) within the limits of the police station to which such police officer is appointed; or

(ii) in the premises of any station house; or

(iii) on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or

(b) being a public servant, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant; or

(c) being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or

(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or

(e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or

(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or

(g) commits rape during communal or sectarian violence; or

(h) commits rape on a woman knowing her to be pregnant; or

2. * * * * *

(j) commits rape, on a woman incapable of giving consent; or

(k) being in a position of control or dominance over a woman, commits rape on such woman; or

(l) commits rape on a woman suffering from mental or physical disability; or

(m) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or

(n) commits rape repeatedly on the same woman,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

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

(a) “armed forces” means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;

(b) hospital means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

(c) “police officer” shall have the same meaning as assigned to the expression police under the Police Act, 1861 (5 of 1861);

(d) “women's or children's institution” means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children.

3. [(3) Whoever, commits rape on a woman under sixteen years of age shall be punished with, rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this sub-section shall be paid to the victim.]

376A. Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of section 376 and in the course of such commission inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.

Punishment for causing death or resulting in persistent vegetative state of victim.

* * * * *

376C. Whoever, being—

(a) in a position of authority or in a fiduciary relationship; or

(b) a public servant; or

(c) superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or

Sexual intercourse by a person in authority.

(d) on the management of a hospital or being on the staff of a hospital, abuses such position or fiduciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.

Explanation 1.—In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375.

Explanation 2.—For the purposes of this section, Explanation 1 to section 375 shall also be applicable.

Explanation 3.—"Superintendent", in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates.

Explanation 4.—The expressions "hospital" and "women's or children's institution" shall respectively have the same meaning as in Explanation to sub-section (2) of section 376.

Gang rape.

376D. Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

Punishment for repeat offenders.

376E. Whoever has been previously convicted of an offence punishable under section 376 or section 376A or [section 376AB or section 376D or section 376DA or section 376DB,] and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.]

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CHAPTER XII

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

154. (1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf: Information in cognizable cases.

Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that,—

(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such persons choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible.

* * * * *

(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

Provided that Statement made under this sub-section may also be record by audio-video electronic means:

Provided further that the statement of a woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted shall be recorded, by a woman police officer or any woman officer.

* * * * *

(5A) (a) In cases punishable under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code (45 of 1860), the Judicial Magistrate shall record the statement of the person against

whom such offence has been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police:

Provided that if the person making the statement is temporarily or permanently mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:

Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be videographed.

(b) A statement recorded under clause (a) of a person, who is temporarily or permanently mentally or physically disabled, shall be considered a statement *in lieu of* examination-in-chief, as specified in section 137 of the Indian Evidence Act, 1872 (1 of 1872) such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial.

EXTRACTS FROM THE INDIAN EVIDENCE ACT, 1872

(1 OF 1872)

* * * *

53A. In a prosecution for an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code (45 of 1860) or for attempt to commit any such offence, where the question of consent is in issue, evidence of the character of the victim or of such persons previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent.]

Evidence of character or previous sexual experience not relevant in certain cases.

* * * *

114A. In a prosecution for rape under clause (a), clause (b), clause (c), clause (d), clause (e), clause (f), clause (g), clause (h), clause (i), clause (j), clause (k), clause (l), clause (m) or clause (n) of sub-section (2) of section 376 of the Indian Penal Code (45 of 1869), where sexual intercourse by the accused is proved and the question is whether it was without the consent of the woman alleged to have been raped and such woman states in her evidence before the court that she did not consent, the court shall presume that she did not consent.

Presumption as to absence of consent in certain prosecution for rape.

Explanation—In this section, sexual intercourse shall mean any of the acts mentioned in clauses (a) to (d) of section 375 of the Indian Penal Code (45 of 1860).

* * * *

146. When a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend

Questions lawful in cross-examination.

(1) to test his veracity,

(2) to discover who he is and what is his position in life, or

(3) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture:

Provided that in a prosecution for an offence under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code (45 of 1860) or for attempt to commit any such offence, where the question of consent in an issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual experience, of such victim with any person for proving such consent or the quality of consent.

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RAJYA SABHA

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BILL

further to amend the Indian Penal Code, 1860; the Code of Criminal Procedure, 1973
and the Indian Evidence Act, 1872.

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(Shri K.T.S. Tulsi, M.P.)

MGIPMRND—1335RS(S3)—07-12-2021.

Bill No. 147 of 2021

THE DELHI SPECIAL POLICE ESTABLISHMENT (AMENDMENT)
BILL, 2021

A

BILL

further to amend the Delhi Special Police Establishment Act, 1946.

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

1. (1) This Act may be called the Delhi Special Police Establishment (Amendment) Act, 2021. Short title and commencement.

5 (2) It shall be deemed to have come into force on the 14th day of November, 2021.

Amendment of section 4B. **2.** In section 4B of the Delhi Special Police Establishment Act, 1946, in sub-section (1), the following provisos shall be inserted, namely:— 25 of 1946.

"Provided that the period for which the Director holds the office on his initial appointment may, in public interest, on the recommendation of the Committee under sub-section (1) of section 4A and for the reasons to be recorded in writing, be extended up to one year at a time: 5

Provided further that no such extension shall be granted after the completion of a period of five years in total including the period mentioned in the initial appointment."

Repeal and savings. **3.** (1) The Delhi Special Police Establishment (Amendment) Ordinance, 2021 is hereby repealed. Ord.10 of 2021. 10

(2) Notwithstanding such repeal, anything done or any action taken under the Delhi Special Police Establishment (Amendment) Ordinance, 2021, shall be deemed to have been done or taken under the provisions of this Act. Ord.10 of 2021.

STATEMENT OF OBJECTS AND REASONS

The menace of corruption, black money and international financial crime and its intricate link with drugs, terrorism and other criminal offences pose a serious threat to national security and the stability of financial systems of our country. Further, corruption in public life often has the inevitable consequence of economic and social rights of people being violated. The spectre of corruption erodes the confidence of people in the systems that are meant to provide them good governance. Effectively tackling corruption and financial crimes is, therefore, essential for the realisation of economic and social rights of people and for maintaining their faith in institutions of governance. In the present times, the menace of corruption has become inextricably linked with money laundering which is being tackled by every nation not only individually but as a part of a global network.

2. In order to obviate such threats, international community has been consistently taking multi-lateral global initiatives over the years. With the advent of newer technologies, tax havens and other factors of global importance, newer avenues and techniques have emerged which make the task far more complicated. The fight against corruption, black money, money laundering and threat of proceeds of crime destabilising the world economy is at a critical juncture.

3. In India, various legislations have been enacted since 1946 to combat corruption, money-laundering and economic offences, amongst other such activities e.g. the Delhi Special Police Establishment Act, 1946, the Prevention of Corruption Act, 1988 and the Prevention of Money-Laundering Act, 2002.

4. India is committed to fostering respect for international law and treaties (article 51 of the Constitution of India). It has ratified the United Nations Convention Against Corruption (UNCAC) in May 2011 which requires States parties to introduce effective policies aimed at the prevention of corruption by variety of measures ranging from institutional arrangements such as the establishment of the specific anti-corruption body, to codes of conduct and policies promoting good governance, rule of law, transparency and accountability. The Convention is applicable to the prevention, investigation and prosecution of corruption and to the freezing, seizure, confiscation and return of the proceeds of established offences.

5. Article 36 of Chapter III (Criminalization and law enforcement) of the Convention prescribes for specialized authorities in this regard. A peer review for India was done with respect to the implementation of the articles under Chapter III and it has been recommended to take steps to further strengthen the law enforcement agencies tasked with investigation and prosecuting corruption and money laundering offences, and to strengthen inter-agency coordination.

6. Thus, India's position requires significant enhancement of capacity and resources in the agencies tasked with matters relating to corruption and money-laundering. Additionally, under certain circumstances the nation faces certain sensitive investigative and legal processes attendant to important cases, requiring extradition of fugitive offenders, which require a continuum. Considering that the Director of Enforcement (ED) and Director, Central Bureau of Investigation (CBI) are relevant and significant part of the global movement against corruption and money laundering, any possibility of restricting the tenure may defeat the object under certain circumstances. Further, at the same time, it is rational to have a fixed upper limit to the tenure of such appointments to maintain independence. Furthermore, there is every possibility of such global contingencies occurring in the future and therefore, amendments in the Delhi Special Police Establishment Act, 1946 are necessitated to meet such contingencies whenever arises with certain in-built safeguards.

7. While the ED has the sole jurisdiction to investigate the money-laundering cases, the CBI has the primary responsibility to investigate cases of corruption. With the interlinking of persons and groups involved in money-laundering and corruption activities, unravelling the crime and corruption nexus through the ED and CBI becomes not only complex, but also has international ramifications. Thus, investigation of such crimes requires the two investigating agencies to have robust processes and senior personnel in position for sufficiently long tenures. As such, enhancing capacity and resources for continuing oversight by the senior officers, especially the heads of the two agencies, is fundamental to the proposed re-strengthening. It is strongly felt that assured long tenures of the heads of ED and CBI on similar lines would be highly desirable.

8. Considering that ordinarily, longer tenures are an established practice in major countries, two years tenure ought to be a minimum. However, in our case owing to several factors, including the issues of seniority and hierarchy, two years tenure has in fact become the upper limit with individuals being appointed close to their date of superannuation.

9. In view of the above, while leaving sufficient room for the competent authority to suitably decide the tenure of the officers heading the important investigating agencies of the Government and supervising sensitive cases involving public interest depending upon the circumstances, it is essential to provide clear enabling stipulations in the Delhi Special Police Establishment Act, 1946 in regard to the tenure, and extension of tenure of appointment and an upper limit of tenure. The said enabling provisions ensures the continuity of tenure depending upon the exigencies of the office at a given point of time and also safeguard the sanctity and independence of the sensitive position occupied by the person in-charge and will remove possibility of any other interpretation.

10. Keeping the above in view and with the objective to remove any contrary interpretation and with a view to make a specific provision, leaving room for the competent authority, depending on the exigencies of circumstances, in the tenure of the officers heading the important investigating agency of the Government and supervising sensitive cases involving public interest, it is essential to provide clear and unambiguous enabling provision regarding tenure of the officer heading the investigating agency in the Delhi Special Police Establishment Act, 1946.

11. Sub-section (1) of section 4B of the Delhi Special Police Establishment Act, 1946 deals with the appointment of Director of the Central Bureau of Investigation which provides that—“*The Director shall, notwithstanding anything to the contrary contained in the rules relating to his conditions of service, continue to hold office for a period of not less than two years from the date on which he assumes office*”.

12. As the Parliament was not in session and there was an immediate need of legislation in this regard, the Delhi Special Police Establishment (Amendment) Ordinance, 2021 (Ord. 10 of 2021) was promulgated on 14th day of November, 2021.

13. The Delhi Special Police Establishment (Amendment) Bill, 2021 which seeks to replace the Delhi Special Police Establishment (Amendment) Ordinance, 2021 (Ord. 10 of 2021) provides for amendment of section 4B so as to insert two provisos therein.

14. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;

DR. JITENDRA SINGH.

The 1st December, 2021.

ANNEXURE

EXTRACT FROM THE DELHI SPECIAL POLICE ESTABLISHMENT ACT, 1946

(25 OF 1946)

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4B. (1) The Director shall, notwithstanding anything to the contrary contained in the rules relating to his conditions of service, continue to hold office for a period of not less than two years from the date on which he assumes office.

Terms and conditions of service of Director.

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LOK SABHA

A
BILL

further to amend the Delhi Special Police Establishment Act, 1946.

(Dr. Jitendra Singh, Minister of State for Personnel, Public Grievances and Pensions)

MGIPMRND—1230LS—01.12.2021

Bill No. XXI of 2020

THE HIGH COURT OF ORISSA (ESTABLISHMENT OF A PERMANENT
BENCH IN WESTERN ODISHA) BILL, 2020

A

BILL

*to provide for the establishment of a permanent Bench of the High Court
of Orissa in Western Odisha.*

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

1. (1) This Act may be called the High Court of Orissa (establishment of a Permanent Bench in Western Odisha) Act, 2020.

Short title.

5 (2) There shall be established a permanent Bench of the High Court of Orissa in Western Odisha at a suitable place, to be decided by the Union Government in consultation with the Orissa High Court and other appropriate authorities as may required and; such Judges of the Orissa High Court, being not less than five in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at such place where the permanent
10 bench will be set up in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Western part of the State of Odisha, including Bargarh, Bolangir, Jharsuguda, Nayagarh, Nuapada, Sambalpur, Subarnapur, Kalahandi, Baudh, Sonepur, Koraput, Kandhamal, Nabarangpur, Raygada and Sundargarh.

Establishing a bench of HC of Orissa in Western Odisha.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India provides the right of access to justice to every citizen. Justice at the door step has been the motto of every Government, and yet the demand for establishment of a permanent bench of the Orissa High Court in Western Odisha has been pending for a long time. There have been unending agitations, protests and demonstrations by all sections of the people in support of the cause. Many parts of Western Odisha are tribal dominated and a larger part by the other backward communities. The High Court of Orissa situated at Cuttack is roughly at a distance of around three hundred kilometers from districts of Western Odisha. The people of that region are not in a position to bear the burden of expenditure on account of travelling and lodging to Cuttack frequently. The Orissa High Court, as such, is over-burdened with cases. In average, there is only one High Court Judge per forty lakh of the population of the State.

This Bill, therefore, seeks to establish a permanent Bench of the Orissa High Court at any suitable place in Western Odisha by the Union Government in consultation with the Hon'ble High Court of Orissa and other appropriate authorities.

Hence, this Bill.

PRASANNA ACHARYA

RAJYA SABHA

A

BILL

to provide for the establishment of a permanent Bench of the High Court
of Orissa in Western Odisha.

(Shri Prasanna Acharya, M.P.)

MGIPMRND—1319RS(S3)—07-12-2021.

Bill No. VIII of 2021

THE INDIAN PENAL CODE (AMENDMENT) BILL, 2021

A

BILL

further to amend the Indian Penal Code, 1860.

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

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2021.

Short title and commencement.

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

45 of 1860.

2. For section 295 of the Indian Penal Code, 1860, the following section shall be substituted, namely:—

Substitution of Section 295.

10 "295. Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punishable with imprisonment of either description for a term which may extend to twenty years, or with fine, or with both."

Injuring or defiling place of worship with intent to insult the religion of any class.

STATEMENT OF OBJECTS AND REASONS

India is a religious society. Religion plays an important role in each of our lives and forms an indispensable part of our society. It is the basis of our ceremonies, festivals and even harvest celebrations. Andhra Pradesh has unfortunately witnessed a spate of temple desecrations. These cowardly attacks need to be dealt firmly by the State in a manner which has a deterrent effect.

Data on attacks on temples in Andhra Pradesh shows that in 2020, about 228 cases of attacks on temples were registered, compared to 305 cases in 2019, 267 in 2018, 318 in 2017, 332 in 2016 and 290 in 2015. A stricter national law, hence, is the need of the hour.

Such acts of desecrations are a social evil and affect the sentiments within the society as well as create an environment of disharmony. Section 295 of the Indian Penal Code at present provides for just 2 years of imprisonment. Considering the harm caused to the society at large by incidents of desecration, the punishment under section 295 of the IPC therefore needs a revision to curb such acts.

Hence this Bill.

V. VIJAYASAI REDDY

ANNEXURE

EXTRACTS FROM THE INDIAN PENAL CODE, 1860

(45 OF 1860)

295. Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Injuring or defiling place of worship, with intent to insult the religion of any class.

* * * * *

RAJYA SABHA

A

BILL

further to amend the Indian Penal Code, 1860.

(Shri V. Vijayasai Reddy, M.P.)

MGIPMRND—1317RS(S-3)—07-12-2021.

Bill No. XVIII of 2021

THE INDIAN PENAL CODE (AMENDMENT) BILL, 2021

A

BILL

further to amend the Indian Penal Code, 1860.

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

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2021.

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.

Act 45 of 1860.

2. For section 124A of the Indian Penal Code, 1860 (hereinafter referred to as the Code), the following section shall be substituted, namely:—

Substitution of new section for section 124A.

10 "124A. Whoever, by words, either spoken or written, or by signs, or by visible representation or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law

Sedition.

in India, shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine:

Provided that the provisions of this section shall apply only when the words, signs, visible representation or any other action directly results in incitement of violence and commission of an offence punishable with imprisonment for life under this Code. 5

Explanation.—Comments or signs or visible representation or any other act expressing disapprobation of the administrative measures or other action of the Government, do not constitute an offence under this section." 10

Substitution of new section for section 309.

3. In the Code, for section 309, the following section shall be substituted namely:—

Threat of suicide with intent to coerce a public authority.

"309. Whoever holds out a threat of suicide to a public authority, with intent to cause that authority to do any act which it is not legally bound to do, or to omit to do any act which it is legally entitled to do, as the means of avoiding the execution of such threat, and does any act towards the execution of such threat, shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both." 15

Substitution of new exception for exception 2 of section 375.

4. In the Code, in section 375, for Exception 2, the following Exception shall be substituted, namely:—

"(2) Marriage or other relationship shall not constitute a defence to a charge of rape under this section." 20

STATEMENT OF OBJECTS AND REASONS

Democracy is not another name of majoritarianism, on the contrary it is a system to include every voice, where thought of every person is counted, irrespective of the number of the people backing that idea. In a democracy, it is natural that there will be different and conflicting interpretations of a given account of an event. Not only viewpoints which constitute the majority are to be considered, but at the same time, dissenting and critical opinions should also be acknowledged. Free speech is protected because it is necessary to achieve some greater, often ultimate, social good. In a democratic set-up, there has to be an active and intelligent participation of the people in all spheres and affairs of their community as well as the State. It is their right to be kept informed about current political, social, economic and cultural life as well as the burning topics and important issues of the day in order to enable them to consider and form broad opinion about the same and the way in which they are being managed, tackled and administered by the Government and its functionaries. To achieve this objective the people need a clear and truthful account of events, so that they may form their own opinion and offer their own comments and viewpoints on such matters and issues and select their further course of action.

2. The Supreme Court has also narrowed the scope and applicability of section 124A, in its landmark judgment in *Kedar Nath Singh V/s State of Bihar* (1962) case, where it linked sedition to a test of tangible evidence of actual harm. There is an urgent need to amend section 124A of the Indian Penal Code in compliance with the judgment of the Supreme Court and to prevent the possibility of undue harassment of citizens who simply disagree with the Government.

3. Section 309 of Indian Penal Code criminalised an attempt to suicide by any person. However section 115 of the Mental Health Care Act, 2017 States that any person who attempts to commit suicide shall be presumed to have stress and therefore shall not be punished under IPC thus making provision of section 309 of IPC otiose. The Law Commission had twice, in 1971 and 2008, also recommended the repeal of section 309 of the IPC. In *Aruna Ramchandra Shanbaug v. Union of India*, (2011) 4 SCC 454, the Supreme Court emphasised that a person suffering from mental health illnesses needs help rather than punishment. However, it is imperative to punish suicide where it serves another purpose, *i.e.*, an attempt to suicide should be criminalised when it is used as an instrument to threaten with the object of coercing a public authority to pursue a course of action. To prevent suicide attempts being used as threats, to intimidate or coerce public authorities, the new provision be added to the code.

4. In India, marital rape exists *de facto* but is not recognised *de jure*, *i.e.* in law. While in other countries either the legislature has criminalized marital rape, or the judiciary has played an active role in recognizing it as an offence, in India, however, very little has been done to recognise this crime. Though marital rape is the most common and repugnant form of masochism in Indian society, it is hidden behind the iron curtain of marriage. In 1993, the United Nations High Commissioner for Human Rights published the declaration on the elimination of violence against women. This also establishes Marital Rape as a human right violation. However, India is one of the thirty-six countries that still have not criminalized marital rape. In a landmark judgment, the Supreme Court in *Independent Thought v. Union of India*, (2013) 382 SCC (2017) criminalized unwilling sexual contact with a wife between fifteen and eighteen years of age. This judgment has in turn led to an increase in other writs challenging the constitutionality of Exception 2 of section 375 of IPC as a whole. Although the Constitution guarantees equality to all under Article 14, Indian criminal law discriminates against female victims who have been raped by their own husbands. Exception 2 also violates

Article 21's right to live a healthy and dignified life. It is well settled that the "right to life" envisaged in Article 21 is not merely a right to exist. The courts have repeatedly held that the "right to life" encompasses a right to live with human dignity. Yet, the very existence of Exception 2 of section 375 which fails to deter husbands from engaging in acts of forced sexual contact with their wives, adversely affects the physical and mental health of women and undermines their ability to live with dignity. It is time that we recognise the inhumane nature of this provision and consign it to the dustbin of history.

This Bill seeks to amend sections 124A, 309 and Exception 2 of section 375 of the Indian Penal Code, 1860 to achieve the aforesaid objectives.

DR. SASMIT PATRA

ANNEXURE

EXTRACT FROM THE INDIAN PENAL CODE, 1860

(45 OF 1860)

* * * * *

124A. Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards, the Government established by law in India shall be punished with imprisonment for life to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine. Seditious.

Explanation 1.—The expression “disaffection” includes disloyalty and all feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

* * * * *

309. Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year or with fine, or with both. Attempt to commit suicide.

* * * * *

375. A man is said to commit “rape” if he— Rape.

* * * * *

Exception 1.—A medical procedure or intervention shall not constitute rape.

Exception 2.—Sexual intercourse of sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.

RAJYA SABHA

A

BILL

further to amend the Indian Penal Code, 1860.

(Dr. Sasmit Patra, M.P.)

MGIPMRND—1327RS(S3)—07-12-2021.

AS INTRODUCED IN THE RAJYA SABHA
ON THE 3RD DECEMBER, 2021

Bill No. XII of 2021

THE MEDICAL EDUCATION LAWS (AMENDMENT) BILL, 2021

A

BILL

further to amend the Dentists Act, 1948 and the National Medical Commission Act, 2019.

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

1. (1) This Act may be called the Medical Education Laws (Amendment) Act, 2021. Short title and commencement.
- (2) It shall come into force with immediate effect.

- 16 of 1948. 5 2. In the Dentist Act, 1948, after the proviso to section 10-D, the following shall be inserted, namely:— Amendment of section 10D.

"Provided further that notwithstanding any judgment or order of any Court, the provisions of this section shall not apply, in relation to the uniform entrance examination at the undergraduate or postgraduate level conducted in accordance with any regulations made under this Act, in respect of the State Government seats, whether in Government Dental College or in a private Dental College, in the States which do not opt for the uniform entrance examination."

Amendment
of section 2.

3. In the National Medical Commission Act, 2019 (hereinafter referred to as the principal Act), after clause (t) of section 2, the following shall be inserted namely: 30 of 2019.

"(tt) "State Government seats" shall mean and include all seats in the State Government colleges, State Universities, constituent colleges of said State Universities and medical educational institutions and includes seats surrendered by private medical educational institutions, under any arrangement, to the State Government."

Amendment
of section 14.

4. In the principal Act, after the proviso to sub-section (3) of section 14, the following shall be inserted, namely:

"Provided further that notwithstanding anything contained in any provisions of this Act, the provisions of this section shall not apply, in relation to the National Eligibility-cum-Entrance Test, at the undergraduate level or postgraduate or super-speciality level in respect of State Government seats unless such state has opted for such National Eligibility-cum-Entrance Test."

Insertion of
new section
15A.

5. In the principal Act, after section 15, the following section shall be inserted, namely: 20

Exemption
from National
Exit Test.

"15A. (1) Notwithstanding anything contained in any provisions of this Act, section 15 of this Act shall not apply in relation to persons studying in undergraduate courses in all colleges, universities and medical institutions other than Central Government institutions in a State which has not opted for National Exit Test.

(2) The Commission shall specify, by Regulations, the manner of conducting common counselling by the designated authority for admission to the postgraduate seats in the medical institutions referred to in sub-section (1)."

Amendment
of section 33.

6. In the principal Act, after sub-section (1) of section 33, the following section shall be inserted, namely:

"(1A). Notwithstanding anything contained in this section, all persons who have completed their undergraduate medical courses from colleges, universities and medical institutions other than Central Government institutions in States which have opted out of the National Exit Test, shall, after the completion of their undergraduate medical course, be entitled to a license to practice medicine and shall have his name and qualifications be registered on the rolls of the State or National Register, as the case may be."

STATEMENT OF OBJECTS AND REASONS

Section 10-D of the Dentists Act, 1948 introduced Uniform Entrance Examination to all dental educational institutions at the undergraduate and post graduate levels. Similarly, section 14 of the National Medical Commission Act, 2019 introduced a Uniform National Eligibility-cum-Entrance Test (NEET) for entry into undergraduate and post graduate medical courses. Section 15 of this Act also introduced a National Exit Test to be taken after completion of the undergraduate medical courses, which will serve as qualification for a licence to practice medicine and registration on the National or State Register as the case may be.

2. It has been felt across the country that NEET not only gives students studying in the Central Board of Secondary Education (CBSE) schools an upper hand, but also greatly disadvantages the economically weaker sections of the society. There are three basic grounds on which NEET is opposed by the people of various States—(i) the examination completely decimates the right of the State to regulate medical education; (ii) the test is largely based on CBSE syllabus thereby placing students from other streams of education in an obvious disadvantage; and (iii) it requires extra coaching at considerable cost apart from ordinary school education and not everybody is able to afford the same. In so far as the first objection, education is a matter placed in Entry 25 of List III of Seventh Schedule to the Constitution, meaning thereby the State Legislature also has legislative competence over the field and by extension, the Executive of that State. The Dentist Act, 1948 and the National Medical Commission Act, 2019 have been enacted as per powers vested upon the Central Government under Entry 66 of List I. However, the power of the State Government in the field of admissions to the colleges by conducting examinations is available to them under Entry 25 of List III. This has been clearly enunciated by the Hon'ble Supreme Court in the case of *The Modern Dental College vs. The Tamilnadu Medical Officers Association*.

3. In so far as the second objection, the NEET examination is conducted by the CBSE as the nodal agency on the CBSE syllabus up to 12th standard. This means that the students who have studied in CBSE schools are at an obvious advantage when compared to the students studying in other streams of education, particularly students studying in various State Boards, that too in regional language. The common medical entrance tests cause grave hardships and untold miseries to the students who are passing out from the State Board schools. There are different State Boards across India following different syllabus and textbooks, thus leading to different standards of education among students. Further, the students, after completing rigorous examination at the 10+2 level through various examinations, either conducted at the State level by the respective State Boards or the Indian Certificate of Secondary Education (ICSE) or by the Central Board of Secondary Education (CBSE) are asked to face a common medical entrance examinations immediately after school. This places an enormous strain on them. Thus, common uniform entrance examinations for the undergraduate level does not create a level playing field for all the students as they graduate from different boards with different syllabus.

4. In so far as the third objection, the experience of the past four years shows that in order to pass or score well in the NEET examination, students have to opt for private coaching which is extra-ordinarily expensive and cannot be afforded by a common man.

5. These objections are borne out by the statistics from the last years' NEET examinations. There is a decrease of students from the State Boards who have applied for NEET-2020 when compared to NEET-2019. In fact, there has been a steady dip of candidates from the State Boards since 2016, which shows that students passed out from the State Boards are not able to afford the requisite coaching to be able to sit for NEET examination. In

fact, a number of candidates who have applied are older and repeat candidates who have already taken the examination in the previous years.

6. Further, though the curriculum for medical education is prescribed by the National Medical Commission, however, the medical colleges located in various States affiliated to various Universities follow their own syllabus, and text books at the under graduate level. The syllabus, subjects and textbooks prescribed by the Universities varies from State to State. Therefore, the education of students is not uniform. Consequently, there is no possibility of conducting a uniform test for graduates of undergraduate courses across the country as the Universities which confer the degrees have different standards.

7. Therefore, it is necessary to amend section 10-D of the Dentists Act, 1948 to grant exemption to States opting out of Uniform Entrance Examination. It is also necessary to amend the National Medical Commission, Act, 2019 which provides for a National Eligibility-cum-Entrance Test under section 14 and a National Exit Test under Section 15 of the Act so as to exempt from holding NEET and EXIT test. Needless to say that exemption from these provisions is also the need of the hour for the States which do not opt for National Eligibility-cum-Entrance Test and National Exit Test. Like-wise, the requirement for the certificate of National Exit Test to register as a medical practitioner under section 33 is also required to be amended to fall in tune with new proposed provisions.

The Bill seeks to achieve these objectives.

P. WILSON

ANNEXURE
EXTRACTS FROM THE DENTISTS ACT, 1948
(16 OF 1948)

*	*	*	*	*	*	*	*	
<p>10D. There shall be conducted a uniform entrance examination to all dental educational institutions at the undergraduate level and post-graduate level through such designated authority in Hindi, English and such other languages and in such manner as may be prescribed and the designated authority shall ensure the conduct of uniform entrance examination in the aforesaid manner:</p> <p>Provided that notwithstanding any judgment or order of any court, the provisions of this section shall not apply, in relation to the uniform entrance examination at the undergraduate level for the academic year 2016-17 conducted in accordance with any regulations made under this Act, in respect of the State Government seats (whether in Government Dental College or in a private Dental College) where such State has not opted for such examination.</p>								Uniform Entrance Examination for undergraduate and postgraduate level.
*	*	*	*	*	*	*	*	
EXTRACTS FROM THE NATIONAL MEDICAL COMMISSION ACT, 2019 (30 OF 2019)								Short title and extent.
*	*	*	*	*	*	*	*	
<p>2. In this Act, unless the context otherwise requires,—</p> <p>(t) “Schedule” means the Schedule to this Act;</p>								Definitions.
*	*	*	*	*	*	*	*	
<p>14. (1) There shall be a uniform National Eligibility-cum-Entrance Test for admission to the undergraduate and postgraduate super-specialty medical education in all medical institutions which are governed by the provisions of this Act:</p> <p>Provided that the uniform National Eligibility-cum-Entrance Test for admission to the undergraduate medical education shall also be applicable to all medical institutions governed under any other law for the time being in force.</p> <p>(2) The Commission shall conduct the National Eligibility-cum-Entrance Test in English and in such other languages, through such designated authority and in such manner, as may be specified by regulations.</p> <p>(3) The Commission shall specify by regulations the manner of conducting common counseling by the designated authority for admission to undergraduated and postgraduate super-specialty seats in all the medical institutions which are governed by the provisions of this Act:</p> <p>Provided that the designated authority of the Central Government shall conduct the common counseling for all India seats and the designated authority of the State Government shall conduct the common counseling for the seats at the State level.</p>								National Eligibility-cum-Entrance Test.
<p>15. (1) A common final year undergraduate medical examination, to be known as the National Exit Test shall be held for granting licence to practice medicine as medical practitioners and for enrolment in the State Register or the National Register, as the case may be.</p> <p>(2) The Commission shall conduct the National Exit Test through such designated authority and in such manner as may be specified by regulations.</p> <p>(3) The National Exit Test shall become operational on such date, within three years from the date of commencement of this Act, as may be appointed by the Central Government, by notification.</p>								National Exit Test.

(4) Any person with a foreign medical qualification shall have to qualify National Exit Test for the purpose of obtaining licence to practice medicine as medical practitioner and for enrolment in the State Register or the National Register, as the case may be, in such manner as may be specified by regulations.

(5) The National Exit Test shall be the basis for admission to the postgraduate broad-specialty medical education in medical institutions which are governed under the provisions of this Act or under any other law for the time being in force and shall be done in such manner as may be specified by regulations.

(6) The Commission shall specify by regulations the manner of conducting common counselling by the designated authority for admission to the postgraduate broad-speciality seats in the medical institutions referred to in sub-section:

Provided that the designated authority of the Central Government shall conduct the common counselling for All India seats and the designated authority of the State Government shall conduct the common counselling for the seats at the State level.

* * * * *

33. (1) Any person who qualifies the National Exit Test held under section 15 shall be granted a licence to practice medicine and shall have his name and qualifications enrolled in the National Register or a State Register, as the case may be:

Provided that a person who has been registered in the Indian Medical Register maintained under the Indian Medical Council Act, 1956 prior to the coming into force of this Act and before the National Exit Test becomes operational under sub-section (3) of section 15, shall be deemed to have been registered under this Act and be enrolled in the National Register maintained under this Act.

(2) No person who has obtained medical qualification from a medical institutional established in any country outside India and is recognised as a medical practitioner in that country, shall, after the commencement of this Act and the National Exit Test becomes operational under sub-section (3) of section 15, be enrolled in the National Register unless he qualifies the National Exit Test.

(3) When a person whose name is entered in the State Register or the National Register, as the case may be, obtains any title diploma or other qualification for proficiency in sciences or public health or medicine which is a recognized medical qualification under section 35 or section 36, as the case may be, he shall be entitled to have such title, diploma or qualification entered against his name in the State Register or the National Register, as the case may be, in such manner as may be specified by the regulations.

* * * * *

Right of persons to have licence to practice and to be enrolled in National Register and their obligations thereto.

RAJYA SABHA

A
BILL

further to amend the Dentists Act, 1948 and the National Medical Commission Act, 2019.

(Shri P. Wilson, M.P.)

MGIPMRND—1353RS(S3)—07-12-2021.

Bill No. XXXVII of 2021

THE POPULATION CONTROL BILL, 2021

A

BILL

*to provide for measures to control the population in the country and for matters
connected therewith and incidental thereto.*

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

1. (1) This Act may be called as the Population Control Act, 2021.
- (2) It extends to the whole of India.
- 5 (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent,
commencement
and
application.

(4) Notwithstanding anything contained in any other law for the time being in force, this Act shall be applicable to all married couples including couples in a live in relationship, even if the boy is less than twenty-one years of age and the girl is less than eighteen years of age.

Definitions	<p>2. In this Act, unless the context otherwise requires,—</p> <p>(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;</p> <p>(b) “Committee” means District Population Stabilizing Committee set up under Section 5;</p> <p>(c) “employee of the Union Government” means any person who is serving in connection with the affairs of the Central Government or in any undertaking or organization under the control of the Central Government;</p> <p>(d) “Fund” means the National Population Stabilization Fund constituted under Section 10; and</p> <p>(e) “prescribed” means prescribed by the rules made under this Act.</p>	5
Availability of contraceptives.	<p>3. The Central Government shall ensure that contraceptives are available at all sub-health centres in the country and provided free of cost to EWS and BPL groups.</p>	
National Population Control Council.	<p>4. (1) The Central Government shall constitute a National Population Control Council of which the Union Health Minister shall be the Chairman and State Health Ministers and Lt. Governor or Administrators in case of Union Territories shall be the Members.</p> <p>(2) The Council shall meet quarterly in first week of January, April, July and October to discuss the Population Control Program.</p>	20
State Population Control Council.	<p>5. (1) The State Governments shall constitute State Population Control Council of which the Health Minister or Lt. Governor/Administrators in case of Union Territories shall be the Chairman and District Magistrates and Chief Medical Officers shall be the Members.</p> <p>(2) The Council shall meet in the first week of every month to monitor the Population Control Program.</p>	25
Setting of District Population Stabilisation Committee.	<p>6. (1) The appropriate Government shall set up district level monitoring committee to be known as District Population Stabilization Committee in all districts.</p> <p>(2) The Committee shall consist of;</p> <p>(a) the District Collector;</p> <p>(b) the Chief Medical Officer; and</p> <p>(c) One representative from each Panchayat Samiti in the district.</p> <p>(3) The Committee shall take steps to encourage the use of contraceptives and control the population growth rate in their concerned district in such manner as may be prescribed.</p> <p>(4) The first Sunday of every month shall be celebrated as Population Control Day and contraceptives etc. shall be provided free of cost to economically weaker sections and people below poverty line.</p> <p>(5) There shall be sterilization camps on first Sunday of every month in every hospital including primary-health centres and recognized private hospitals.</p>	30
Benefits to married couples for undergoing sterilization.	<p>7. If both the husband and the wife, who have only one child, undergo sterilization/operation, the appropriate Government shall provide them with following benefits namely:—</p> <p>(a) preference for admission in Kendriya Vidyalaya and Navodaya Vidyalayas;</p>	40

- (b) preference for admission in institutes of Higher Education;
- (c) preference to the single child for selection in Government jobs;
- (d) fifty thousand rupees each to wife and husband as one time grant;**
- (e) such other benefits as appropriate Government deems fit.**

- 5 **8. If both the husband and the wife are living below the poverty line and having only one child, undergo sterilization/operation, in addition to the benefits granted under Section 8 by the appropriate Government, such married couple shall be eligible for payment from the Central Government a one-time lump sum amount of fifty thousand rupees if the single child is a boy or one lakh rupees if the single child is a girl.**
- Additional benefits for married couples living below the poverty line.
- 10 **9.** Both the husband and the wife, who have more than two children after the commencement of this Act, shall be debarred from:—
- Disincentives for the married couples with more than two children.
- (a) contesting Lok Sabha, State Legislature and Panchayat elections;
 - (b) getting elected to the Rajya Sabha and State Legislative Council;
 - (c) forming political party and becoming political office bearer;
 - 15 (d) applying for State Government jobs of any category;
 - (e) applying for Central Government jobs of any category;
 - (f) applying for Private jobs of any category;
 - (g) receiving any kind of subsidy including free food, free electricity, free water;
 - (h) receiving any kind of loan from banks and financial institutions;
 - 20 (i) receiving any kind of incentive, stipend and monetary benefits;
 - (j) forming association or union or cooperative society;
 - (k) practicing any profession and carrying out any occupation;
 - (l) using right to vote, right to contest and right to form association.
- 25 **10.** The appropriate Government shall introduce a compulsory subject explaining the adverse effects of population explosion and benefits of population control in all schools including recognized, unrecognized, minority education schools and essay competition and debates etc. will be organized every month.
- Compulsory subject on Population Control.
- 30 **11. (1) There shall be constituted a Fund called the National Population Stabilization Fund by the Central Government.**
- Constitution of National Population Stabilisation Fund.
- (2) The Central Government and the State Government shall contribute to the Fund in such a ratio as may be determined by the Central Government:**
- Provided that the ratio shall be such that the State with higher fertility rate shall contribute in higher proportion compared to the States with lower fertility rate.**
- 35 **(3) The money collected under the Fund shall be redistributed to the States and Union Territories that have implemented reforms to control population and have been able to significantly reduce their population growth rate, in such manner as may be prescribed.**
- 12.** The Central Government shall provide adequate funds after due appropriation by the Parliament by law in this behalf, from time to time, for carrying out the purposes of this Act.
- Provision for Central Government Employees.
- 40 **13. (1)** After one year from the commencement of this Act, all employees of the Central and State Government shall submit an undertaking in writing to the respective appointing authority that they shall not procreate more than two children:
- Undertaking by the Government Employees.

Provided that the employees who already have more than two children at the commencement of the Act shall submit an undertaking that they shall not procreate any more children.

Miscellaneous provisions.

14. (1) The Central and State Government, when recruiting employees, shall give preference to candidates having two or less than two living children. 5

(2) The employees of the Central and State Government already having two living children may be allowed to procreate one more child in case of disability of living child or any such circumstances as prescribed in the rules.

(3) An employee of the Central and State Government whose action is found to be in violation of any provision of this Act shall be liable for dismissal from service. 10

Power to make rules.

15. The Central Government may, by notification in the Official Gazette, make rules for carrying the purpose of this Act.

Power to override laws.

16. 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

At present, 125 crore Indians have AADHAAR, around 20 per cent *viz.* 25 crore are without AADHAAR, and around 5 crore Bangladeshi-Rohingya infiltrators illegally reside in India. From this, it is evident that the total population of our country is more than 150 crore and we have marched ahead of China. If we calculate natural resources, then we have around 2 per cent of agriculture land and 4 per cent drinking water of the world. However, our population is 20 per cent.

Russia is five times bigger than India but its population is 15 crores. China is three times bigger than India and population is 144 crores. America is three times bigger than India and its population is 33 crores. Canada is three times bigger than India and its Population is just 4 crores. Brazil is 2.5 times bigger than India and its population is 22 crores. Australia is 2.5 bigger than India and its population is 2.5 crores and we are now 150 crores. Similarly, 5000 children are born per day in Russia, 1000 children are born per day in Canada, 44000 children are born per day in China, 11000 children are born per day in America, 8000 children are born per day in Brazil, 900 children are born per day in Australia. But 70,000 children are born per day in India.

Population explosion is root cause of most of our problems including shortage of water, forests, land, bread, clothes and house, poverty and unemployment, hunger and malnutrition and air, water, soil and sound pollution. It is root cause of the crowds in trains, police stations, tehsils and jails, High Courts and Apex Court. Population explosion is the root cause of theft, dacoity and snatching, domestic violence, physical and mental harassment of women and separatism, fanaticism, stone pelting etc. From a survey, conducted on thieves, dacoits, snatchers, rapists and mercenaries, it is apparent that about 80 per cent criminals and offenders are such that their parents have not followed policy of "Ham Do - Hamare Do". Therefore, it is evident from the above stated facts that population explosion is the basic cause of more than 50 per cent problems of India.

The Bill, therefore, seeks to introduce incentives for population control and provides for constitution of a National Population Stabilization Fund and National Population Control Council. It is vital for us to realize that population control and enforcement of two child norms are immediate measures, and steps such as providing contraceptives and encouraging family planning will play a stronger role in decreasing the population growth rate in long run.

Hence this bill.

HARNATH SINGH YADAV

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for establishment of District Population Stabilization Committees that would work to provide assistance and information regarding population control. Clauses 7 and 8 provide for cash amount to be given to couples as an incentive for population control. Clause 10 provides for the introduction of a compulsory subject on population control in schools of certain districts. Clause 11 provides for the establishment of the National Population Stabilization Fund. Clause 12 provides that the Central Government shall provide funds for carrying out the purposes of this Act. The Central Government shall have to incur some expenditure for implementing the provisions of this Bill in respect of Union Territories. The State Governments will incur expenditure in respect of their States out of their respective consolidated funds. The Bill, therefore, if enacted, would involve an annual recurring expenditure of about five hundred crore rupees per annum from the Consolidated Fund of India. No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of normal character.

RAJYA SABHA

A

BILL

to provide for measures to control the population in the country and for matters connected therewith and incidental thereto.

(Shri Harnath Singh Yadav, M.P.)

MGIPMRND—1347RS(S3)—07-12-2021.

Bill No. XXXVI of 2021

THE PROMOTION OF EQUAL OPPORTUNITY AND PROHIBITION
OF DISCRIMINATION AGAINST SCHEDULED CASTES AND
SCHEDULED TRIBES IN EMPLOYMENT BILL, 2021

A

BILL

*to provide equal opportunity and prohibition of discrimination against Scheduled
Castes and Scheduled Tribes in services, trade, business and commerce or
other utility services in private sector establishment and for matters
connected therewith and incidental thereto.*

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

CHAPTER I

PRELIMINARY

- 5 **1.** (1) This Act may be called the Promotion of Equal Opportunity and Prohibition of
Discrimination Against the Scheduled Castes and Schedule Tribes in Employment Bill, 2021.
- (2) It extends to the whole of India.
- (3) It shall come into force with immediate effect.

Short title,
extent,
commencement
and
application

(4) It shall apply to all private sector concerns engaging in any business, trade, commerce, contract, construction, transport and other utility services within the territorial jurisdiction of India.

Definitions.

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

(a) "Committee" means the equal opportunity and Prohibition of Discrimination monitoring Committee constituted under Sector 10. 5

(b) Government Contracts

(1) For the purposes of this Act, a "government contract" means a contract wherein one of the parties qualifies as 'state' for the purposes of Article 12 of the Constitution of India. 10

(2) Provided that a contract which is not a government contract as defined above, but which involves the performance of any obligations under a government contract, shall be considered a government contract, for the purposes of this Act.

(c) "Notification" means a notification issued under this Act and published in the Official Gazette of India; 15

(d) "Prescribed" means prescribed by rules made by the Ministry of Empowerment, the nodal ministry and under this Act, by the executive orders of the ministry, or those made by the Central Government and in force but not inconsistent with the Act or Rules made under this Act; 20

(e) "Prescribed Authority" shall mean the Ministry of Social Justice and Empowerment, Government of India, as nodal ministry or an officer authorised by it;

(f) "Private sector establishment" means any organization or establishment which is owned by private individual or a private corporation in which the govt. of India or state has no financial interest; 25

(g) "Rules" means those Rules made under this Act and instructions, directions, or orders issued under this Act or those existing but not inconsistent with this Act and Rules; 5

(h) "Scheduled Castes" and "Scheduled Tribes" shall have the same meaning assigned to them respectively under Clauses (24) and (25) of Article 366 of the Constitution. 30

(i) "Service" shall mean and include any service or post or class of posts or office, appointed to for remuneration in connection with the affairs of the private sector establishment by recruitment, promotion, transfer, deputation and up-gradation including contractually, through outsourcing, or otherwise. 35

(2) The respective State Governments may take suitable steps for framing similar enactments with provisions *mutatis mutandis* as a conditions to grant or allot loans, concessions, subsidies, share capital, land, or, utility services to any private sector establishment by whatever nomenclature used with in the territorial jurisdiction of the State as specified in the First Schedule to the Constitution. 40

Equal opportunity and facilities to the SC & STs.

3. (1) The Central Government and the private sector establishment shall promote and provide equal opportunity and facilities to members of the Scheduled Castes and Scheduled Tribes by an affirmative economic action programme and shall not discriminate against them in any economic activity, including but not limited to the awarding of contracts, subcontracts, services, trade, business, commerce, construction contracts, transport, contracts to supply goods or utility services: 45

Provided that a private sector establishment that avails or utilises the contract services of a subcontractor or contract labour agency shall ensure that at least 25 per cent. of the contractual services are awarded to Scheduled Castes and Scheduled Tribes.

(2) When a private sector establishment contracts to purchase goods or services from the suppliers of such goods or services, at least 25 percent. of such contracts for supply of goods or services shall be made with Scheduled Caste and Sheduled Tribe suppliers or small establishment enterprises or cooperative societies wholly composed of and managed by members belonging to Scheduled Castes or Scheduled Tribes or both only.

(3) When the Central Government or a Public sector undertaking, industry, company or utility service awards a contract to a private sector ebtablishment for supply of goods or services, the contract shall contain a clause that the private sector establishment shall purchase or avail at least 25 percent. of the contracted goods or services for Scheduled Caste or Scheduled Tribe suppliers or small establishments, enterprises or cooperative societies wholly composed of and managed by members belonging to Scheduled Castes or Scheduled Tribes or both only as subcontractors.

(4) When a private sector establishment obtains a construction contract with the Central Government or a public sector undertaking, industry company or utility service it shall avail or utilise the services of, or purchase at least, 25 percent. of the contracted goods or services from Scheduled Caste or Scheduled Tribe suppliers or small establishments, enterprises or cooperative societies wholly composed of and managed only by Scheduled Castes or Scheduled Tribes or both.

(5) In the awarding of contracts, outlets licenses, public utility services, leases, allotments or auction of shops, industrial units, plots of land for industrial or commercial purpose, dealerships and distribution of any other largesse, the Central Government or a public sector undertaking, industry, company or utility service shall allot at least 15 percent. to Scheduled Caste recipients and at least 7½ percent. to Scheduled Tribe recipients:

Provided that where adequate numbers from either category are not available or do not avail such awards, the residue shall be allotted to the other categories.

(6) (i) A private sector establishment in its allotment of contracts, outlets, licentses, utility services, leases, shops, franchises, dealerships, distribution of any work, goods or services, shall allot at least 15 percent. to Scheduled Castes recipients and 7½ percent. to Scheduled Tribe recipients:

Provided that where adequate numbers from either category are not available or do not avail such awards, the residue shall be allotted to the other categories:

Provided that benami transactions shall be void and the allotte of the benami acquires no right, title or interest therein.

(ii) The private sector establishment on satisfying itself as to the nature of the misrepresentation shall allot to any other Scheuled Caste or Schedule Tribe recipient such subcontract, supply, or service or goods.

Provided further that such benami transaction shall be cancelled following a just and fair procedure consistent with the principles of natural justice in such manner as may be prescribed and on such cancellation, the same shall be re-allotted to any other person belonging to Scheduled Caste or Scheduled Tribe.

(7) (i) If any person covered by the transactions described in Sub-sections (1) to Sub-section (6) misrepresents himself to be from the Scheduled Caste or Scheduled Tribe community, he shall be ineligible for such subcontract, supply, service or goods.

(8) Provided also that the Assistant Central Labour Commissioner having territorial jurisdiction over the private sector establishment shall, on a complaint, or in a *suo motu* proceeding, inquire into such benami transactions or misrepresentation and after giving

reasonable opportunity of oral hearing to the affected person, cancel the allotment in such manner as may be prescribed.

Penalty for false statements.

4. A private sector establishment, contractor, or a subcontractor making any false statement for the purpose of obtaining a contract, service, or supply of goods shall be liable to pay a penalty of not less than one-third of the total value of the contract or subcontract, which shall be recovered on a certificate issued by the Central Assistant Labour Commissioner as arrears of land revenue by the Executive Magistrate having territorial jurisdiction over the private sector establishment and the same shall be credited to a fund created by the nodal ministry. 5

Power of enquiry of Central Assistant Labour Commissioner.

5. The Central Assistant Labour Commissioner exercising territorial jurisdiction over the private sector establishment shall on a complaint, or in a *sou motu* proceeding, enquire into the veracity of the statement and after giving reasonable opportunity of oral hearing to the offending person pass brief reasoned orders in such manner as may be prescribed: 10

Provided that the onus to prove that the statement is not false shall lie on the person making the statement and on rebuttal, the complainant, or in case of a *suo motu* proceeding, concerned Central Assistant Labour Commissioner shall be responsible to substantiate it. 15

Appeal.

6. An appeal against the orders of the Central Assistant Labour Commissioner shall lie to the Regional Central Labour Commissioner exercising territorial jurisdiction over the private sector establishment who, after giving reasonable opportunity of oral hearing to the appellant, shall decide the appeal within three months from the date of filing the appeal with brief reasons in support of the order, in such manner as may be prescribed. 20

CHAPTER IV

The nomination of accountable person by the private sector and the authorised officer by the nodal ministry.

7. (1) A Private Sector Establishment shall notify to the nodal ministry within two months from the date of commencement of this Act, an 'accountable person' of the Private Sector establishment who shall be responsible for the implementation of this Act, the rules made thereunder and all directions or orders issued by the nodal ministry or those in operation. 25

(2) The nodal ministry shall authorise an officer of the rank of Joint Secretary for the implementation of the provisions of this Act. The rules made thereunder and all instructions or directions of the nodal ministry.

(3) The authorised officer shall interact with the private sector establishment to secure the enforcement of and compliance with this Act to provide equal opportunity in service, trade, business, commerce or any other diverse contractual activity of the private sector establishment to the Scheduled Castes and Scheduled Tribes in matters related to the entry into contract, supply of contract labour service, goods, utility services or any other activity connected within the private sector establishment. 30 35

(4) The authorised officer in consultation with the Secretary, Labour Department, Government of India, or any other department of the Government of India, shall collect all relevant information and maintain a register containing a list of eligible and qualified persons of Scheduled Caste and Scheduled Tribe community for supply when called for by any private sector establishment. 40

Training.

8. (1) The authorised officer, in collaboration with the private sector establishment or independently, shall arrange and organise training for Scheduled Caste and Scheduled Tribe persons so as to impart the necessary knowledge, training and skills required in the private sector establishment for service, trade, business, commerce, transport, manufacture of goods, utility service, performance of contract or transmission of information technology and so on, either in existing institutions will involve expenditure created for such purpose at such places as are necessary. 45

(2) The accountable person of the private sector establishment shall interact with and inform the authorised officer of the nodal ministry of the eligibility requirements and qualifications of its personnel so as to enable him to make available the needed personnel to 50

the private sector establishment or, in collaboration with the private sector establishment, to organise and part the necessary training to Scheduled Caste and Scheduled Tribe persons.

(3) The private sector establishment shall also arrange to part from time to time, prior to or on appointment, promotion or up-gradation, the required knowledge, training and skills to all Scheduled Caste and Scheduled Tribe candidates.

9. (1) A member of the Scheduled Caste or Scheduled Tribe community who applies for appointment, award of contract, subcontract, agency, contract labour supply agency or any other economic activity and is not provided such opportunity for appointment, award of contract, subcontract, agency, contract labour supply agency or in any other economic activity, or is discriminated against, may make a complaint to the Central Assistant Labour Commissioner having territorial jurisdiction over the private sector establishment.

(2) On receipt of the complaint the Central Assistant Labour Commissioner shall summon the accountable person of the private sector, or anyone duly authorised by him, to appear in person or through counsel to explain to his case.

(3) On a *prima facie* concurrence that the complainant was denied opportunity or was discriminated against, the Central Assistant Labour Commissioner shall conciliate the matter between the complainant and the accountable person, or his authorised representative, and give such directions as may be necessary to provide opportunity to the complainant for his employment or participation in the concerned economic activity.

(4) In case the conciliation fails, the Central Assistant Labour Commissioner shall refer the matter to the office of the Regional Central Labour Commissioner who, upon such receipt, shall refer the same to the Regional Conciliation and Counselling Committee.

10. (1) The nodal ministry shall constitute in each region, of a State, a Regional Conciliation and Counselling Committee to further conciliate any matter received from the Central Assistant Labour Commissioner.

(2) The Regional Conciliation and Counselling Committee shall consist of —

(a) A representative of the private sector;

(b) A social activist with the necessary knowledge and experience in the concerned sphere of the private sector and who is also committed to social justice and the empowerment of the Scheduled Castes and Scheduled Tribes;

(c) A local advocate engaged in voluntary assistance to the Scheduled Caste and the Scheduled Tribe communities.

(3) The Regional Central Labour Commissioner shall convene a meeting of the Regional Conciliation and Counselling Committee for further counselling and conciliation between the private sector establishment and the complainant by summoning them to do so.

(4) The Regional Conciliation and Counselling Committee shall report the outcome of their efforts to the Central Regional Labour Commissioner.

(5) The Regional Central Labour Commissioner shall, after considering all necessary factors, take a decision with reasoned orders in support thereof and communicate it to both parties:

Provided that if the Regional Central Labour Commissioner so finds, he may direct the private sector establishment to employ the complainant or engage in economic activity with him:

Provided further that the claim is found unjustified the same shall be communicated to the complainant.

(6) The private sector establishment shall be directed to implement the order of the Regional Central Labour Commissioner within one month from the date of its receipt and report compliance thereof.

Complaints.

Regional Conciliation and Counselling Committee.

CHAPTER V

CONSTITUTION OF EQUAL OPPORTUNITY AND PREVENTION OF DISCRIMINATION
MONITORING COMMITTEE AND ITS POWERS AND PROCEDURE

Constitution
and
composition
of the Equal
Opportunity
and
Prevention of
Discrimination
Monitoring
Committee.

11. (1) The Central Government shall constitute a Committee to be known as the Equal Opportunity and Prevention of Discrimination Monitoring Committee with the following members:— 5

(a) Two Scheduled Caste Members of Parliament, one from the Lok Sabha and one from the Rajya Sabha;

(b) Two Scheduled Tribe Member of Parliament from either the Lok Sabha or the Rajya Sabha; 10

(c) The Secretary, Ministry of Corporate Affairs, Union Government;

(d) The Secretary, Ministry Social Justice and Empowerment, Union Government;

(e) The Secretary, Ministry of Labour, Union Government;

(f) A member representing the private sector; and

(g) A member with experience or knowledge of both private sector work and human rights. 15

(2) The Chairman of the Committee shall be elected from among the four Members of the Parliament and in the absence of chairman any other Member of Parliament may preside over the meeting.

(3) The Joint Secretary, Ministry of Social Justice and Empowerment, Government of India, shall be the Secretary of Committee and shall convene all meetings and have custody over its records. 20

(4) The term of the Committee shall run *co terminus* with the Lok Sabha.

(5) If any vacancy arises in the membership of the Committee under clauses (a) to (d) of sub-section (1) due to resignation, death, or otherwise, the same may be filled by the Central Government by appointing any other member for the remaining term of the Committee from the respective category. 25

(6) Till a succeeding Committee is constituted after general elections to the Lok Sabha, the existing Committee shall continue to operate and function.

(7) In the event of a vacancy in the Committee or the absence of any member attending its meetings, the proceedings of such meetings shall not be void or invalid. 30

(8) The Committee shall meet regularly at least twice a week and review the proper and effective implementation of this Act, the rules made thereunder, any directions, orders or policy affirmative action programmes for employment or socio-economic empowerment of the Scheduled Castes and the Scheduled Tribes. 35

(9) The Regional Central Labour Commissioner shall periodically report to the Equal Opportunity and Prevention of Discrimination Monitoring Committee every six months of all action taken in implementation of this Act.

(10) The Committee, upon the receipt of any complaint, or in a *suo motu* action, transmits its decisions to the Central Assistant Labour Commissioner exercising territorial jurisdiction over the relevant private sector establishment to take further action thereon. 40

(11) The Committee shall report to both Houses of Parliament every year of all action taken by it regarding the implementation of this Act, the rules made thereunder and all directions, orders or policy affirmative action programmes and any recommendation by the Houses of Parliament shall be enforced. 45

11. (i) The nodal Ministry shall constitute a fund for the implementation of this Act from its budgetary allocations as also from penalties recovered from the private sector establishments.

(ii) The Penalties recovered by the District Magistrate from the private sector as arrears of land revenue shall be credited to the account of the fund.

(iii) The amount accumulated in the fund shall be utilised to impart knowledge and skills training for all members of the Scheduled Castes and Scheduled Tribes employed in the private sector establishments or engaged in any economic activity therein.

12. The nodal Ministry, in collaboration with the Ministry of Corporate Affairs and Union Ministry of Labour and Empowerment shall be responsible for the coordination and implementation of the provisions of this Act, the rules made thereunder and all directions, orders or policy affirmative action programmes made thereunder and shall report to the Committee.

Coordination and implementation.

13. No suit, prosecution or other legal proceeding shall lie against any implementing officer for any act done in good faith in pursuance of this Act, its Rules, or any other direction.

Protection of action taken in good faith.

14. (1) All private sector establishments shall nominate an officer from among its Scheduled Caste or Scheduled Tribe officers of such rank prescribed under this Act to function as a liaison officer to enforce the provision of this Act and such an officer is not available, any other officer shall be nominated.

Nomination of liaison officer.

(2) The liaison officer shall be responsible, in particular for:

(a) Coordination and strict implementation of this Act, its Rules and all instructions or directions by the nodal ministry in true spirit and purpose to achieve the objects of this Act;

(b) Submission of reports and returns to the nodal ministry within the prescribed period;

(c) Facilitating the inspection of records by the authorised officer of the nodal ministry; and

(d) Any other incidental work necessary for the above purposes.

15. (1) Private sector establishment shall maintain such records as may be prescribed and shall furnish the same every year to the nodal ministry in such manner and at such time as may be prescribed including but not limited to an annual report on appointments, promotions, up-gradations and transfers of all Scheduled Caste or Scheduled Tribe personnel made during the previous year, information regarding the number of unfilled posts or vacancies and the steps taken to fill them up and the reasons for not filling them up.

Submission of annual report and maintenance of records thereof.

(2) An officer authorised by the nodal ministry, not below the rank of Director, shall inspect records relating to the services maintained by the private sector establishment so as to ensure implementation of this Act.

(3) It shall be the duty of the private sector establishment through its liaison officer to make available such records or documents relating to sub-section (2) for inspection by the inspecting officer and to furnish such information and extend or arrange such assistance as may be necessary to carry out the inspection.

16. A private sector establishment its liaison officers or the accountable person responsible for implementing the provisions of this Act found contravening the provisions of this Act, the Rules made thereby or any instructions or directions, shall be liable to pay a penalty of at least three lakh rupees Rs. 3,00,000:

Penalty for contravention of this Act.

Provided that if the concerned, liaison officer or accountable person proves that he made every *bona fide* and sincere effort and exercised utmost care, attention and diligence to implement this Act, the Rules made thereunder and all directions issued thereunder or those in force he shall be exempted from paying the penalty.

Affidavit.

17. (1) A person claiming to be a member of any Scheduled Caste or Scheduled Tribe community shall file an affidavit to that effect and duly attested by an officer as specified in the Schedule to this Act.

(2) As soon as an appointment to a reserved post is made, the appointing authority of the private sector establishment or the concerned department of the Central Govt., public sector undertaking, industry, company, or public sector bank, shall immediately send the affidavit, original social status certificate and application for recruitment, or social status existing as on date to the Director of Social Welfare or the Tribal Welfare Department of the appropriate State Government for verification. 5

(3) On receipt of the record mentioned in sub-section (2) from the private sector establishment, the appointing authority or a competent officer of the central Govt., public sector undertaking, industry, company, or Public Sector Nationalised Bank, the Director of Social Welfare or the Tribal Welfare Department of the appropriate State Government shall verify the veracity of the social status of the appointee and shall report back on such veracity within three months from the date of the receipt of the record. 10 15

(4) In case such report is adverse to the appointee, the appointing authority or a competent officer shall immediately issue a show cause notice to the appointee together with a copy of the report received from the Director of the Social Welfare or Tribal Welfare Department calling for an explanation within a specified time.

(5) On receipt of the explanation, if any, within the specified or extended time, the private sector concern shall take appropriate action within one month as per the rules or in accordance with the principles of natural justice and shall pass an order with brief reasons in support thereof: 20

Provided that if the appointee seeks oral hearing in person, before an order is passed, such an opportunity may be given and the order shall be served in person on the appointee or, in case of avoidance, sent by registered post with acknowledgement due to the last known address: 25

Provided further that a copy thereof shall be sent to the Director of the Social Welfare or the Tribal Department.

(6) An appeal shall lie against an order passed under sub-section (5) to the Head of the Department of the private sector establishment or the Head of the Department of the concerned Union Ministry, public sector undertaking, industry, company or public sector bank. 30

(7) The appellate authority shall, after giving an opportunity of personal hearing to the employee, decide the same with brief reasoned orders within three months from the date of filing the appeal. 35

(8) The order of appellate authority shall be served on the employee either in person or by registered post with acknowledgement due:

Provided that in case the order is favourable to the employee, a copy shall be communicated to the Director of the Social Welfare or the Tribal Welfare Department of the appropriate State Government. 40

Penalty for false claims.

18. (1) Whoever, falsely claims to be a member of a Scheduled Caste or Scheduled Tribe and produces such a social status certificate shall be liable to be punishable with imprisonment of not less than six months and fine up to twenty thousand rupees or more.

(2) Whoever, charged with the responsibility of issuing caste certificates to members of the Scheduled Castes and Schedule Tribes, issues a false caste certificate shall be liable to imprisonment of not less than three months and fine up to ten thousand rupees. 45

(3) The falsity of the claim or certificate shall be proved by the report of the Director of Social Welfare or the Tribal Welfare Department regarding the social status of the appointee and the burden shall be on the appointee or the certificate issuing officer to prove otherwise.

(4) An appointee accused and convicted under sub-section (1) of this section shall stand disqualified for any future appointment in any private sector establishment or in the Union of India, State Government, public sector undertaking, industry, company or public sector banks and shall also not be eligible to contest any electoral representative office including Member of Parliament, Member of Legislative Assembly or Council and local bodies.

(5) No prosecution for an offence under this Act shall be maintainable against an officer except by or with the sanction of the nodal ministry with prior approval of the National Commission for Scheduled Castes or National Commission for Scheduled Tribes.

(6) The said Commissions shall examine the veracity of the conclusion of *prima facie* violation of this Act and the nodal ministry shall ordinarily accept such recommendation unless it further consults the respective Commission and if the respective Commission may revise such recommendation.

(7) The respective Commissions for Scheduled Castes or Scheduled Tribes shall send their recommendation within three months from the date of receipt of communication from the nodal ministry.

19. (1) No competent court shall take cognizance of an offence punishable under Section 18 save on a complaint filed by the aggrieved person or competent police officer or authorised officer of the nodal ministry or the Director of the Social Welfare or the Tribal Welfare Department of the appropriate State Government.

Cognizance of the offence by a competent court.

(2) No court inferior to that of the Courts of the Metropolitan Magistrate or the Judicial Magistrate of the First Class shall try an offence punishable under this Act.

20. The offences under this Act shall be cognisable and non-bailable.

Cognizance and non-bailable.

The provisions of the Protection of Civil Rights Act, 1955, and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, stand inapplicable as to the extent of this Act.

21. Every Private sector establishment shall be bound by this Act, the Rules made thereunder or such directions or instructions issued by the Central Govt. and in operation but not contrary to or inconsistent with the provisions of this Act or any general or special orders, given in writing from time to time, to give effect to the provisions of this Act.

Power of Central Government to give directions.

22. Notwithstanding anything contained in any other law for the time being in force the provisions of this Act shall have overriding effect.

Act to have over-riding effect.

23. If any difficulty arises in giving effect to the provisions of this Act, the nodal ministry may, by order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act as may be necessary for removing such difficulty.

Removal of difficulties.

24. The Ministry of Social Justice and Empowerment shall, every year, place before each House of Parliament a report giving a full account of the implementation of this Act during the preceding year.

Presenting of Annual Report.

25. (1) The Ministry of Social Justice and Empowerment may, give proper and full effect to this Act, and by notification, make rules to carry out the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing provisions, the nodal ministry may make such provisions and may provide for all or any of the following matters namely:—

(a) to ensure that the percentages of posts, offices or services to be reserved in the private sector establishments for the members of the Scheduled Castes and Scheduled Tribes under this Act be not less than 15 percent and 7¹/₂ percent respectively or as may be amended from time to time;

(b) manner of filling the posts reserved for Scheduled Castes and Scheduled Tribes and relaxation of upper age limit etc.;

(c) exemption of fee for applying for recruitment to a service;

(d) rank of officer to be nominated as liaison officer under section 14;

(e) the manner of conducting annual inspection of records under Section 15; 5

(f) the records to be maintained by private sector establishments under Section 15, the manner in which, and the time at what, an annual report on the appointments, promotion or up-gradation of Scheduled Castes or Scheduled Tribes persons made during the previous year to be furnished;

(g) procedure for enquiry by the appointing authority and appellate authority; 10

(h) such other rules or orders or direction which is required to be prescribed to carry out the provisions of this Act.

(3) Every rule made under this Act or instructions or directions shall be placed, 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 of one session or of two or more successive sessions, and if, before the expiry of the session immediately following the current 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. Any such modification or annulment shall be without prejudice to the validity of anything previously done under this Act, its Rule, directions or orders. 20

SCHEDULE

[Section 17(I)]

AFFIDAVIT

I _____ S/D/o _____
of Village/Town _____ within the jurisdiction of
_____ Police Station in _____ Taluk/Mandal/Subdivision _____
in the Districts/Division _____ of the State/Union Territory belong
to _____ Community/Caste/Tribe by birth and
continue to be a Scheduled Caste/Tribe which is recognised in item No. _____ as
Scheduled Caste/Scheduled Tribe under the Constitution (Scheduled Caste/Scheduled Tribe)
Order, 1950 or as amended from time to time by the Scheduled Caste/Scheduled Tribe List
Modification Order, 1956, the Bombay Reorganisation Act, 1960, The Punjab Reorganisation
Act, 1966, The State of Himachal Pradesh Act, 1970, The North-Eastern Areas (Reorganisation),
1971, and the Scheduled Caste/Scheduled Tribe Order Amendment Act, 1976 of the Scheduled
Caste/Scheduled Tribe Amendment Order _____

I _____ S/D/o _____ further state that my parents and
myself ordinarily/normally reside in the said Village/Town and within the
jurisdiction of _____ Police Station in _____ Taluk/
Mandal/Subdivision in the District/Division _____ of the
State/Union Territory. I further verify and solemnly state that the facts stated above are true
and correct to the best of my knowledge, belief and information and no part of the statement
is incorrect or false.

Signature of the Candidate

Attested by a Gazetted Officer

Note: In case the candidate is son or daughter of a migrant labour or transferee, and in
service of the Central Government or State Government or other authority, it should
further be stated in the affidavit of the date of migration or transfer of the parent and the
duration of stay in the migrated or transferred place in which the Caste or Tribe was not
recognised as Scheduled Caste or Scheduled Tribe.

The following officers are eligible to attest the affidavit:

- (1) District Magistrate/ Additional District Magistrate and the District Collector/ Deputy
Commissioner/ Additional Deputy Commissioner/ Deputy Collector/ Additional Joint
District Collector/ Judicial Magistrate First Class/ First Class Stipendiary Magistrate/
Sub-Divisional Magistrate/ Taluka Magistrate/ Executive Magistrate/ Extra Assistant
Commissioner.
- (2) Chief Presidency Metropolitan Magistrate/ Additional Chief Presidency, Metropolitan
Magistrate/ Presidency Magistrate.
- (3) Revenue Officer not below the rank of the Tehsildar.
- (4) Sub-Divisional Officer/ Mandal Revenue Officer / Mandal Development Officer of the
area where the candidate and/or his family normally reside/ migrated to or transferred.

STATEMENT OF OBJECTS AND REASONS

The constitutional philosophy of the Democratic and Socialist Republic of India is founded upon an inclusive and participatory Democracy. However, large social segments, in particular the Scheduled Castes and Scheduled Tribes are socially and economically deprived, disadvantaged and have faced historical and systemic discrimination.

The Constitution emphasizes the need to bring the Scheduled Castes and Scheduled Tribes into the national mainstream and guarantees social economic and political justice to all. The Constitution provides an imperative on the state to promote their welfare, minimize economic disparity, and endeavor to eliminate inequalities in status, facilities and opportunities.

Further, the state has to promote the particular economic interest of Scheduled Castes and Scheduled Tribes and protect them from all forms of exploitation. Citizens too have a fundamental duty of striving towards excellence.

In light of the changing nature of economy and increased Liberalization, Privatization and Globalization and consequent rolling back of a state, Scheduled Castes and Scheduled Tribes have increasingly been at receiving end. The private sector is increasingly becoming more participant in various socio-economic activities without commensurate responsibility of empowerment of weaker section of the society.

The participation of Scheduled Castes and Scheduled Tribes in private sector economy remains minimal. Therefore, in fulfillment of constitutional goals, private and corporate sectors are required to discharge their corresponding social responsibilities.

In view of the above a bill to prohibit discrimination in matters of employment and to provide equal opportunity to Scheduled Castes and Scheduled Tribes in private sector employment and matters arising out of this right or connected therewith or incidental thereto is necessary.

Hence, this Bill.

NEERAJ DANGI.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 25 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

FINANCIAL MEMORANDUM

Clause 11 provides for establishment of a fund for the implementation of this Act.

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

RAJYA SABHA

A
BILL

to provide equal opportunity and prohibition of discrimination against Scheduled Castes and Scheduled Tribes in services, trade, business and commerce or other utility services in private sector establishment and for matters connected therewith and incidental thereto.

(Shri Neeraj Dangi, M.P.)

MGIPMRND—1345RS(S3)—07-12-2021.

Bill No. XVI of 2020

THE RIGHT OF CHILDREN TO FREE AND COMPULSORY
EDUCATION (AMENDMENT) BILL, 2020

A

BILL

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

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

1. This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2020. Short title.

5 2. In the Right of Children to Free and Compulsory Education Act, 2009, in section 8, after clause (i), the following clause shall be inserted, namely:— Amendment of section 8.

"(j) provide incentive, financial or otherwise, to the parent or guardian, as the case may be, whose child has been enrolled in any school:

10 Provided that a person shall be entitled to the incentive, financial or otherwise, as the case may be, only if the gross annual family income is below eight lakh rupees, or as may be prescribed by the appropriate Government, from time to time."

STATEMENT OF OBJECTS AND REASONS

The Bill, in essence, is based on the successful Jagananna Amma Vodi programme of Andhra Pradesh. The said program has helped to increase the student enrolments in the state. This law therefore can be replicated nationally.

The Right of Children to Free and Compulsory Education Act, 2009, tried to bring in a healthy regime for compulsory elementary education, such as establishing neighbouring schools, providing training to teaching staff and prescribing of curriculum in a timely manner but fell short of incentivising the parents or the guardians who would be sending their wards to school.

The insertion of clause(s) of article 51A in the constitution of India merely made it a fundamental duty for the parent or guardian to provide educational opportunities to his child between the ages of six to fourteen. However, a need was felt to take further steps which would result in an increase in enrolment levels in the country.

An amendment in the 2009 Act to provide incentives to parents or guardian is required to enable India to achieve its target of hundred per cent enrolment in elementary schools.

Hence, this Bill.

V. VIJAYASAI REDDY

FINANCIAL MEMORANDUM

The intended amendment to the Right of Children to Free and Compulsory Education Act, 2009 provides for giving incentives financial or otherwise, to the parents or guardians, subject to a minimum income limit. A recurring expenditure of about rupees ten thousand crore per annum is anticipated for the expenses towards the same.

No non-recurring expenditure likely to be incurred.

RAJYA SABHA

A

BILL

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

(Shri V. Vijayasai Reddy, M.P.)

MGIPMRND—1313RS(S3)—07-12-2021.

Bill No. XXII of 2021

THE RIGHTS OF PERSONS AFFECTED BY LEPROSY AND MEMBERS OF THEIR
FAMILY (PROTECTION AGAINST DISCRIMINATION AND
GUARANTEE OF SOCIAL WELFARE)
BILL, 2021

ARRANGEMENT OF CLAUSES

CLAUSES

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2. Definitions.
3. Guiding Principles.

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7. Right to own property.
8. Right to form a family.
9. Right to participation.
10. Access to medical treatment.
11. Access to welfare measures by the Central and State Government.
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48. Action taken in good faith.
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SCHEDULE - *Amendments.*

Bill No. XXII of 2021

THE RIGHTS OF PERSONS AFFECTED BY LEPROSY AND MEMBERS
OF THEIR FAMILY (PROTECTION AGAINST DISCRIMINATION AND
GUARANTEE OF SOCIAL WELFARE) BILL, 2021

A

BILL

to protect the human rights of persons affected by leprosy, to eliminate discrimination against them and their families, to promote their social welfare, to take steps for the prevention and control of leprosy and for matters connected therewith or incidental thereto.

WHEREAS the spread of leprosy and discrimination against persons affected by leprosy and their family members is a matter of grave concern to all, and there is an urgent need for the protection of the human rights of such persons, by repealing and amending existing laws the discriminate against them;

AND WHEREAS there is a necessity for effective care, support, treatment and social inclusion and integration of persons affected by leprosy and their families;

49 of 2016.

AND WHEREAS the Rights of Persons with Disabilities Act, 2016 does not cover persons affected by leprosy that are still to be diagnosed or those undergoing treatment and also does not recognise the discrimination and stigma faced by the family members of persons affected and cured of leprosy;

AND WHEREAS the General Assembly of the United Nations, of which India is a member, recalling and reaffirming its previous commitments on leprosy, has unanimously adopted a Resolution on the Elimination of Discrimination against Persons affected by Leprosy and their Family Members in 2010, accompanied by Principals and Guidelines listing out measures to improve the living conditions and social inclusion of such persons;

AND WHEREAS the United Nations Convention on the Rights of Persons with Disabilities 2006 (“UNCRPD”) to which India is a party, promotes, protects and ensures the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities;

AND WHEREAS the Republic of India, having signed the Resolution of the General Assembly of the United Nations on leprosy and having signed and ratified the UNCRPD, 2006 has to make provision to give effect to the said Resolution and Convention;

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

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Rights of Persons Affected by Leprosy and Members of their Family (Protection against Discrimination and Guarantee of Social Welfare) Act, 2021. 5

(2) It extends to the whole of India.

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

Definitions.

2. In this Act, unless the context otherwise requires,— 10

(a) ‘abuse’ means any unwelcome verbal or non-verbal act or behaviour towards a person affected by leprosy or a member of the family of a person affected by leprosy which causes:—

(i) bodily pain or harm to a person affected by leprosy or a member of the family of a person affected by leprosy; 15

(ii) humiliation or embarrassment to a person affected by leprosy or a member of the family of a person affected by leprosy; or

(iii) deprivation of economic and financial resources, foods and fluids or any other form of support, to which a person affected by leprosy or a member of the family of a person affected by leprosy is entitled: 20

Provided that the word ‘leper’ shall be included with in the meaning of ‘abuse’ when any person affected by leprosy is referred to by such word;

(b) ‘appropriate Government’ means;

(i) in relation to an establishment of the Central Government, or any establishment, wholly or substantially owned or financed by that Government or a Cantonment Board constituted under the Cantonments Act, or a Union Territory without legislature, or the provider of a service which pertains to List I in the Seventh Schedule to the Constitution, the Central Government; 25
41 of 2006.

(ii) in all other cases, the State Government or, as the case may be, the Government of a Union Territory with legislature. 30

(c) ‘barrier’ means any factor including attitudinal, cultural, economic, institutional, political, religious, social or structural factors which hampers the full and effective participation, of a person affected by leprosy or a member of the family of a person affected by leprosy in society;

(d) 'disability due to leprosy' means grade 1 or grade 2 disability in the hand, leg or eye that hinders full and effective participation of a person affected by leprosy in society equally with others, whether or not his or her extent of disability has been specified in measurable terms;

5 *Explanation—*

(i) Grade 1 disability means sensory impairment, scars with sensory impairment or muscle weakness without contractures.

(ii) Grade 2 disability means visible impairment, *Lagophthalmos*, *Iridocyclitis*, visual acuity of <6/60, burns, deep cracks, wounds (both simple and deep ulcers), muscle atrophy, bone absorption of shortening or contractures.

(e) 'discrimination' means any act or mission 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, who are either effected by leprosy or associated with persons affected by leprosy; or

(ii) denies, restricts or withholds any benefit, opportunity or advantage from any person or category of persons, who are either affected by leprosy or associated with persons affected by leprosy, including denial of employment, movement in public spaces and reasonable accommodation;

20 and the expression "discriminate" is to be construed accordingly.

(f) 'establishment' means and includes a company, club, firm or any other body corporate or association of persons jointly carrying out a systematic activity for consideration or otherwise including but not limited to:

21 of 1860. (i) a society registered under the Societies Registration Act, 1860, or a
2 of 1912. 25 co-operative society under the Co-operative Societies Act, 1912;

2 of 1882. (ii) a trust under the Indian Trusts Act, 1882 or corresponding state law under which trusts may be established;

(iii) any organisation or institution or authority established by or under a Central Act or State Act or otherwise;

14 of 1947. 30 (iv) any industry under section 2(j) of the Industrial Disputes Act, 1947; or

(v) any shop or establishment governed by a State Act concerning such shops and establishments;

(g) 'exploitation' means any form of conduct which is intended for a commercial purpose, whether for money or kind, and which results in the misuse or unjust treatment of a person affected by leprosy or the member of the family of a person affected by leprosy;

(h) 'healthcare provider' means and includes,—

(i) 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, therapist, psychologist, counsellor or other individual providing medical, nursing, psychological or other healthcare, services, including treatment through Multi-Drug Therapy; or

(ii) any public or private clinical establishment as defined under clause (c) of section 2 of the Clinical Establishments (Registration and Regulation) Act, 2010;

23 of 2010. 45

(i) 'informed consent' means consent given by a person affected by leprosy or a representative of such person specific to a proposed intervention without any coercion,

undue influence, fraud, mistake or misrepresentation and after informing such person or his or her representative, as the case may be, such information as prescribed in the rules, relating to risks and benefits of, and alternatives to, the proposed intervention in such language and in such manner as understood by that the person affected by leprosy or his or her representative, as the case may be;

5

(i) 'local authority' means a municipality, a Cantonment Board, a Panchayat or any other authority, established under an Act of Parliament, or a State Legislature to administer the civic affairs of any habitation as defined in or under such Act;

(j) 'leprosy' means a disease triggered by *Mycobacterium Leprae* characterised by symptoms of pale and reddish skin, numbness of hands or feet or loss of feeling in a patch of skins, and which may lead to disability as defined under clause (d) of this section;

10

(k) 'leprosy cured person' means, notwithstanding anything in the Rights of Persons with Disabilities Act, 2016 or any other law pertaining to persons with disability, any person affected by leprosy, regardless of the percentage of his disability, who has been certified by a registered medical practitioner, as having been administered with the first dose under Multi-Drug Therapy, (MDT) which renders his illness non-infectious, or has completed treatment for leprosy;

49 of 2016.

15

(l) 'multi-durg therapy' (MDT) means the medical treatment wherein a combination of drugs is administered to a person affected by leprosy to render the infection non-contagious and kill *Mycobacterium Leprae*;

20

(m) 'members of the family of pesons affected by leprosy' means and includes—

(i) spouse;

(ii) parents;

(iii) children; and

25

(iv) brothers or sisters

of the person affected by leprosy.

(n) 'person affected by leprosy' means and includes a person who suffers from, or has previously suffered from or has been cured of leprosy, whether or not such person has undergone treatment under MDT;

30

(o) 'prescribed' means prescribed by rules made by the appropriate Government under this Act;

(p) 'public building' means a building, irrespective of ownership, which is used and accessed by the public at large; and includes its entrance, exit, parking space, footpath and other appurtenant lands;

35

(q) 'reasonable accommodation' means necessary and appropriate modification and adjustments, not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to a person affected by leprosy the enjoyment or exercise of this or her fundamental rights and freedoms on an equal basis with others;

(r) 'services' means any provision, facility, utility or any other assistance provided in any form to a person or persons affected by leprosy, or a member or members of the family of a person affected by leprosy and includes services relating to banking and finance; education; health; insurance; rehabilitation; recreation and hospitality; transport or travel; and telecommunications, and such other services which may be notified by the Central Government;

40

45

(s) 'violence' means any act of commission or omission which causes physical, emotional, psychological harm or injury to a person affected by leprosy or a member of the family of a person affected by leprosy.

3. The appropriate Government and local authorities shall secure for persons affected by leprosy and members of the family of persons affected by leprosy:—

Guiding Principles.

(a) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;

5 (b) non-discrimination;

(c) full and effective participation and inclusion in society; and

(d) equality of opportunity.

CHAPTER II

RIGHTS AND ENTITLEMENTS

10 4. (1) No person, establishment or appropriate Government shall discriminate against any person affected by leprosy solely on the ground of his or her affliction, disability, or physical attributes, or against any member of the family of the person affected by leprosy solely on the ground of his or here association with a person affected by leprosy.

Right to Equality and Non-Discrimination.

15 (2) The appropriate Government shall take all necessary steps to ensure that persons affected by leprosy and members of the family of persons affected by leprosy enjoy the right to equality before the law and equal protection of laws.

20 5. (1) No establishment, of appropriate Government or person, shall subject a person affected by leprosy, where such person duly furnishes a certificate of a registered medical practitioner that attests that such person has been administered with the first dose under MDT or has been cured of leprosy, or a member of the family of a person affected by leprosy to the following, namely:—

Prohibition of Discrimination.

(a) the denial of, termination from, or the unfair treatment in, or in relation to, employment or occupation;

25 (b) the denial of, or the unfair treatment in, or in relation to, departmental promotions in 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;

30 (e) the denial or discontinuation of or unfair treatment with regard to access to, or the provision of, or the enjoyment of, or the use of any good, 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;

35 (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, sale, transfer or otherwise occupy, any property;

40 (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 the person may be;

(j) the denial of, or unfair treatment in, the provision of insurance;

45 (k) the unfair treatment in, or in relation to, adoption, inheritance, and marital relations; and

(l) the isolation or segregation in any form.

Right to life and personal liberty.	<p>6. (1) The appropriate Government shall take necessary steps to ensure that persons affected by leprosy and members of the family of persons affected by leprosy enjoy the right to life with dignity, and respect for their personal liberty on an equal basis with others.</p> <p>(2) No person shall be deprived of his personal liberty only on the ground of being affected by leprosy or being associated with a person affected by leprosy in any manner.</p>	5
Right to own property.	<p>7. (1) No person affected by leprosy, or a member of the family of a person affected by leprosy, shall be denied the right to own property or to reside, purchase, sale, rent, use, transfer or otherwise occupy any property, merely for reason of such person being affected by leprosy, or being a member of the family of a person affected by leprosy.</p> <p>(2) No person affected by leprosy or a member of the family of a person affected by leprosy shall be removed, or evicted from an existing settlement occupied by other persons affected by leprosy and members of the family of such persons without prior sanction from the Ombudsperson, appointed under section 28 of this Act, and without being rehabilitated and adequately compensated.</p> <p>(3) The appropriate Government and local authorities shall take appropriate measures, as far as possible, to ensure full enjoyment of the rights as mentioned in sub-section (1) by:—</p> <p style="padding-left: 40px;">(a) securing the tenure, title and ownership of property to each person affected by leprosy and member of the family of a person affected by leprosy, who are living in existing settlements that are occupied only by persons affected by leprosy and members of the family of persons affected by leprosy; and</p> <p style="padding-left: 40px;">(b) ensuring that such existing settlements are accessible, as per the accessibility standards formulated by the Central Government under section 40 of the Rights of Persons with Disabilities Act, 2016, with sanitary and other community support services, including such the assistance necessary to support living, and inclusion within the community, as may be prescribed.</p>	10 15 20 25 49 of 2016.
Right to form a family.	<p>8. No person affected by leprosy, or any member of the family of a person affected by leprosy shall be denied the right to marry, or form a family, including the right to adoption, or assisted procreation, including donor insemination.</p>	
Right to participation.	<p>9. The appropriate Government and local authorities shall take appropriate measures to ensure the participation of persons affected by leprosy, members of the family of persons affected by leprosy or the representatives of such persons in the decisions that directly affect such persons under this Act.</p>	30
Access to medical treatment.	<p>10. (1) No healthcare provider shall deny a person affected by leprosy access to any form of treatment for leprosy.</p> <p>(2) Every healthcare provider shall ensure that every person affected by leprosy has access to all healthcare facilities, goods and services that are available with the healthcare provider and which are necessary for recovering from leprosy and its consequent wounds, deformities and disabilities.</p>	35
Access to welfare measures by the Central and State Government.	<p>11. No person or establishment shall deny a person affected by leprosy or member of the family of a person affected by leprosy, access to welfare schemes, provided under Chapter V of this Act.</p>	40
Protection from torture, or cruel, inhuman or degrading treatment or punishment.	<p>12. No person or establishment shall subject a person affected by leprosy or a member of the family of persons affected by leprosy to torture, or cruel, inhuman or degrading treatment, or punishment.</p>	45

13. (1) No person or establishment shall subject a person affected by leprosy or a member of the family of persons affected by leprosy, to any form of abuse, violence or exploitation, both within and outside of home.

Protection from abuse, violence and exploitation.

(2) The appropriate Government and local authorities shall take all appropriate administrative, social, educational and other measures to protect persons affected by leprosy and members of the family of persons affected by leprosy, from all forms of abuse, violence and exploitation, both within and outside of home.

(3) Any person, or registered organization who or which has reasons to believe that an act of abuse, violence or exploitation has been, or is being, or is likely to be committed against any person affected by leprosy or members of family of a person affected by leprosy, may give information about it to the Executive Magistrate in whose jurisdiction such incident occurs or is likely to occur, who, on receipt of such information, shall take immediate steps to stop it or prevent its occurrence as the case may be, or pass such order as he deems fit for the protection of such person including an order—

(a) to rescue such persons by authorizing the police or any reliable organisation working for the benefit of persons affected by leprosy to provide for the safe custody and rehabilitation of such persons;

(b) to provide protective custody to such persons if he or she so desires; or

(c) to provide compensation to such person, in such manner, as may be prescribed.

(4) No civil or criminal liability shall be incurred by any person, including a person affected by leprosy or a member of the family of a person affected by leprosy, who in good faith furnishes information under sub-section (3);

(5) Any police officer, who receives a complaint or otherwise comes to know of abuse, violence or exploitation towards a person affected by leprosy or a member of the family of a person affected by leprosy, shall take all steps necessary to ensure that the aggrieved person is:

(a) informed of and is able to exercise his or her right to report the abuse, violence or exploitation and apply for protection under sub-section (3);

(b) informed of the particulars of the Executive Magistrate having jurisdiction to provide assistance to such person;

(c) informed of and is directed to the nearest organization or institution working for the rehabilitation of persons affected by leprosy, who have been subjected to abuse, violence or exploitation.

(d) informed of and is able to exercise his or her right to access free legal services under the Legal Services Authorities Act, 1987 and any other service or services offered by the National Legal Services Authority or the State Legal Services Authority for the benefit of such person; and

(e) informed of and is able to exercise his or her right to file a complaint under the relevant provisions of the Indian Penal Code, 1860, or any other law dealing with such crimes:

Provided that nothing in this section shall be construed to free such police officer of his or her obligation to proceed in accordance with this Act, or any other law for the time being in force, upon the receipt of information as to the commission of a cognizable offence.

(6) If the Executive Magistrate determines that the alleged act or behaviour is an offence under the Indian Penal Code, 1860, or under any other law which imposes criminal sanctions on such acts, the Executive Magistrate shall forward a complaint to that effect to the Judicial or Metropolitan Magistrate, as the case may be, having jurisdiction in the matter,

whereupon the latter shall act on it in accordance with the law, and within six months from the date on which the information relating to the complaint is received by the former.

(7) The appropriate Government shall take all measures necessary to prevent all forms of abuse, violence and exploitation against persons affected by leprosy and members of the family of persons affected by leprosy by, *inter alia* providing information and raising awareness on: 5

(a) illegality of incidents of abuse, violence and exploitation against persons affected by leprosy and members of the family of persons affected by leprosy;

(b) the legal remedies available to persons affected by leprosy and members of the family of persons affected by leprosy against such incidents; 10

(c) the legal consequences of such incidents;

(d) the steps to be taken for avoiding such incidents;

(e) the procedure for reporting such incidents; and

(f) the steps required for the rescue, protection and rehabilitation of persons who have been victims of such incidents. 15

CHAPTER III

EDUCATION

Duty of educational institutions to provide inclusive education.

14. (1) The appropriate Government and local authorities shall ensure that all educational institutions that are wholly or partially funded, or recognized by the appropriate Government or local authorities, provide inclusive education, and *inter alia*— 20

(i) admit students affected by leprosy or those whose family member is affected by leprosy, without discrimination, and provide them education appropriate to their age, or mental or physical development, as also opportunities for sports, recreation and leisure activities on an equal basis with others;

(ii) provide reasonable accommodation that is tailored to the requirements of each student affected by leprosy; 25

(iii) provide necessary support in environments that maximize the academic and social development of each student affected by leprosy, and assist him or her in reaching his or her maximum potential; and

(iv) monitor participation, progress in terms of attainment levels, and completion of education, in respect of a student who is either affected by leprosy or is a member of the family of a person affected by leprosy. 30

(2) Where a child affected by leprosy above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary education, then, he or she shall be admitted in a class appropriate to his or her age and shall be entitled to receive special training available under section 4 of the Right of Child to Free and Compulsory Education Act, 2009. 35 of 2009.

Reservations in primary, secondary and higher educational institutions.

15. (1) All Government institutions of primary, secondary and higher education, and all primary, secondary and higher education institutions receiving aid from the Government shall reserve seats in each class or course for persons affected by leprosy as provided for under the Right of Persons with Disabilities Act, 2016: 40 of 2016.

Provided that such persons shall not to be prevented from competing for seats which are not reserved for them.

(2) For the purposes of sub-section (1), reservations for leprosy-cured persons with benchmark disabilities as envisaged under sub-section (1) of section 32 of the Rights of Persons with Disabilities Act, 2016, shall also include persons affected by leprosy, who have been administered with the first dose under MDT. 45 of 2016.

CHAPTER IV

SKILL DEVELOPMENT AND EMPLOYMENT

16. (1) The appropriate Government shall, within a period of one year from the commencement of this Act, formulate schemes and programmes to facilitate and support the employment of persons affected by leprosy and members of the family of persons affected by leprosy, including measures to facilitate vocational training and self-employment of such persons.

Vocational training and self employment.

(2) The appropriate Government shall institute mechanisms for providing loans at concessional rates to persons affected by leprosy or members of the family of persons affected by leprosy for self employment ventures, and for the marketing of their products, as the case may be as provided for under the Right of Persons with Disabilities Act, 2016.

17. (1) The appropriate Government shall reserve, in every establishment owned or controlled by the appropriate Government, posts that are meant to be filled by direct recruitment, for persons affected by leprosy:

Reservations of Posts.

Provided that such persons shall not to be prevented from competing for posts which are not reserved for them.

(2) For the purposes of sub-section (1), reservations for leprosy-cured persons with benchmark disabilities as envisaged under clause (c) of sub-section (1) of Section 34 of the Rights of Persons with Disabilities Act, 2016, shall also include persons affected leprosy, who have been administered with the first dose under MDT.

18. The appropriate Government shall provide incentives to employers in the private sector in order to enable them to progressively include persons affected by leprosy as part of their workforce within a period of five years from the commencement of this Act.

Incentives to employers in the private sector.

19. The appropriate Government shall ensure that a person affected by leprosy is provided reasonable accommodation in the place of his or her employment, which is tailored to the requirements of such person:

Reasonable accommodation in employment.

Provided that the concerned person affected by leprosy shall be consulted in the provision for reasonable accommodation.

20. (1) The appropriate Government may, by notification, specify that the employer in every establishment shall furnish such information or return, as may be prescribed in relation to vacancies appointed for persons affected by leprosy, that have occurred, or are about to occur in that establishment to the special employment exchange notified and established by the Central Government under section 36 of the Rights of Persons with Disabilities Act, 2016.

Special Employment Exchange.

(2) The form, manner, and time period of providing such information or return shall be as prescribed by the Central Government under clause (e) of sub-section (2) of section 100 of the Rights of Persons with Disabilities Act, 2016.

CHAPTER V

SOCIAL INCLUSION, HEALTHCARE AND REHABILITATION

21. (1) The appropriate Government shall promulgate necessary schemes and programmes to,—

Social Security.

(a) safeguard and promote the rights of persons affected by leprosy, and members of the family of persons affected by leprosy; and

(b) ensure that persons affected by leprosy and members of the family of persons affected by leprosy have access to adequate standard of living and living conditions.

(2) The schemes under sub-section (1) shall, *inter-alia* provide,—

(a) financial assistance for income generating activities and market based vocational training for such persons affected by leprosy who have no families, or have been abandoned, or are without shelter or livelihood;

(b) access to safe drinking water and appropriate and accessible sanitation facilities especially in urban slums and rural areas, including settlements where only persons affected by leprosy and members of the family of persons affected by leprosy reside;

(c) pension to persons affected by leprosy or members of the family of persons affected by leprosy subject to such income ceiling as may be notified. 5

(d) unemployment allowance to unemployed persons affected by leprosy, who are registered with special employment exchange, which is notified and established by the Central Government under Section 36 of the Rights of persons with Disabilities Act, 2016 and have been unemployed for more than two years; 10

(e) community-based rehabilitation to persons affected by leprosy and members of the family of persons affected by leprosy as may be prescribed;

Healthcare facilities.

22. (1) The appropriate Government and local authorities shall take all necessary measures to ensure that each person affected by leprosy has barrier-free access to healthcare facilities and schemes available under section 25 of the Rights of Persons with Disabilities Act, 2016. 15
49 of 2016.

(2) The appropriate Government and local authorities shall take all measures necessary to ensure that healthcare providers do not subject persons affected by leprosy to;

(a) inhumane treatment or abuse during the course of medical treatment; or

(b) unethical or involuntary medical procedures or research, including in relation to vaccines, treatments or microbicides for terminal or such other diseases; 20

(3) The appropriate Government shall take all steps necessary to provide aids and appliances, medicine, diagnostic services and corrective surgery free of cost to each person affected by leprosy with such income ceiling as may be notified.

(4) The appropriate Government shall make schemes and programmes for the coverage of medical expenses and therapeutic interventions by a comprehensive insurance scheme for persons affected by leprosy with such income ceiling as may be notified. 25

Rehabilitation.

23. (1) The appropriate Government and local authorities shall undertake or cause to be undertaken services and programmes of rehabilitation, particularly in the areas of health, education and employment for all persons affected by leprosy and members of the family of persons affected by leprosy, based on the assessment of issues faced by such persons: 30

Provided that the appropriate Government shall give due consideration to the diversity of disabilities that affect persons affected by leprosy, and to the gender, age, and socio-economic status of such persons and the members of the family of such persons. 35

(2) The services and programmes under sub-section (1) shall be initiated at the earliest, and no later than one year from the date of commencement of this Act.

(3) For purposes of sub-section (1) and sub-section (2), the appropriate Government and local authorities shall, subject to fulfillment of financial and other norms, and availability of budgetary allocation, grant financial assistance to non-governmental organizations, working for the benefit of persons affected by leprosy, to provide rehabilitation services to such persons and the members of the family of such persons. 40

(4) Prior to the formulation of rehabilitation schemes under sub-section (1), the appropriate Government and local authorities shall consult the representatives of persons affected by leprosy, or associations of persons affected by leprosy, or non-governmental organizations working for the benefit of persons affected by leprosy. 45

24. (1) The appropriate Government shall conduct and promote suitable training and awareness programs for healthcare providers, public servants, and members of the general population to emphasize the importance of early treatment of leprosy through MDT and dispel misconceptions surrounding leprosy.

Promotion of training and awareness programs on leprosy.

5 **(2) For the promotion of training and awareness under sub-section (1), the appropriate Government shall formulate and disseminate leprosy-related information in English and in regional languages and shall ensure that such information is easy to understand, age-appropriate, gender-sensitive, non-stigmatising, non-discriminatory and is revised from time to time.**

10

CHAPTER VI

MULTI-DRUG THERAPY FOR PEOPLE LIVING WITH LEPROSY

25. The Central Government and every State Government, as the case may be, shall take all measures as it deems necessary and expedient for the prevention of the spread of leprosy, in accordance with the guidelines and protocols on leprosy under the National
15 Leprosy Eradication Program and the National Health Mission.

Central Government and State Government to take measures.

26. The measures to be taken by appropriate Government and local authorities under sub-section (1) of Section 22 of this Act shall include provision for free-of-cost MDT to persons affected by leprosy.

Multi-Drug Therapy by Central and State Government.

20

CHAPTER VII

DISCLOSURE OF MEDICAL RECORDS

27. (1) Notwithstanding anything contained in any other law for the time being in force—

Disclosure of medical records.

25 *(i)* no person affected by leprosy shall be compelled to disclose his medical records except by an order of a competent Court that declares the disclosure of such information to be necessary in the interest of justice and for the determination of issues in the matter before the Court;

30 *(ii)* no person or establishment shall disclose or be compelled to disclose the medical records or any other private information of a person affected by leprosy, who has imparted such information to the person or establishment, in confidence, or in a relationship of a fiduciary nature, except with the informed consent of such person affected by leprosy or of the representative of such person obtained earlier in writing;

(2) The informed consent for disclosure of medical records under sub-section (1) is not required where the disclosure is made—

35 *(a)* by a healthcare provider to another healthcare provider who is involved in the care, treatment or counseling of a person affected by leprosy, when such disclosure is necessary to provide care or treatment to such person;

(b) by an order of a competent Court that declares such disclosure as necessary in the interest of justice and for the determination of issues in the matter before the Court;

40 *(c)* in suits or legal proceedings between persons, whether or not any of such persons, who is a party to the suit, is affected by leprosy, and where the disclosure of such information is necessary in filing suits or legal proceedings or for instructing their counsel;

45 *(d)* in relation to statistical or other information of a person affected by leprosy that could not reasonably be expected to lead to the identification of such person; and

(e) to the officers of the Central Government or the State Government, as the case may be, for the purposes of monitoring, evaluation or supervision of the incidence of leprosy within the population:

Provided that, in case of disclosure under clauses (d) and (e) the name and identity of the person affected by leprosy shall not be disclosed.

CHATER VIII

APPOINTMENT OF OMBUDSPERSONS

Appointment of Ombudspersons. **28. (I) Every State Government and U.T. Administration shall appoint one or more Ombudspersons—** 5

(a) possessing such qualifications and experience as may be prescribed, or

(b) designate any of its officers not below such rank, as may be prescribed, by the State Government,

to exercise such powers and discharge such functions, as may be conferred on the Ombudsperson under this Act. 10

(2) The terms and condition of the service of an Ombudspersons appointed under sub-section (I) shall be such as may be prescribed by the Government or the U.T. Administration.

(3) The Ombudsperson appointed under sub-section (I) shall have such jurisdiction in respect of such area or areas as the State Government or the U.T. Administration may, by notification, specify. 15

Powers of Ombudspersons. **29. (I) The Ombudsperson shall, upon a complaint made by any person, inquire into the violations of any of the provisions of this Act.**

(2) The Ombudsperson may require any person to furnish information on such points or matters, as he or she consider necessary, for inquiring into the matter, and any person so require shall be deemed to be legally bound to furnish such information. 20

(3) Any person who fails to furnish such information as required under sub-section (2) shall be punishable under sections 176 and 177 of the Indian Penal code, 1860. 45 of 1860.

(4) The Ombudsperson shall maintain record of the inquiries conducted by him or her in such manner as may be prescribed by the State Government or the U.T. Administration. 25

Procedure of complaint. **30. A complaint may be made to an Ombudsperson under sub-section (I) of Section 29 in such manner as may be prescribed by the State Government or the U.T. Administration.**

Orders of Ombudspersons. **31. (I) The Ombudsperson shall, within a period of thirty days from the receipt of the complaint under sub-section (I) of Section 29, and after giving an opportunity of being heard to the parties, pass such order, as he or she deems fit, giving reasons therefor and in such manner as may be prescribed by the State Government or the U.T. Administration.** 30

(2) Prior to passing an order under sub-section (I), the Ombudsperson shall consult such persons or organizations, including experts on leprosy, as he or she may deem appropriate.

Authorities to assist Ombudspersons. **32. All authorities, including the civil authorities functioning in the area for which an Ombudsperson has been appointed under Section 28, shall assist the Ombudsperson of that area in the execution or orders passed by such Ombudsperson under Section 31.** 35

Report by Ombudsperson. **33. Each Ombudsperson shall, after every six months, report to the State Government or the U.T. Administration as the case may be 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 Ombudsperson and a copy thereof be forwarded to the Central Government.** 40

CHAPTER XI

OFFENCES AND PENALTIES

Penalty for contravention. **34. Notwithstanding any action that may be taken under any other law for the time being in force, whoever contravenes the provisions of Section 5 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.** 45

35. Whoever, by words, either spoken or written, voluntarily or knowingly, publishes, propagates, advocates or communicates by signs or by visible representation or otherwise the feelings of hatred against any person affected by leprosy or member of the family of person affected by leprosy in general, or specifically, or disseminates, broadcasts or displays any information, advertisement or notice, which may reasonably be construed to demonstrate an intention or propagate hatred, or which is likely to expose persons affected by leprosy or members of the family of persons affected by leprosy to hatred, discrimination of physical violence, 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.
36. Whoever fails to comply with the order or an Ombudsperson passed under Section 31, within such time as may be specified in such order, 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 shall failure continues.
37. Notwithstanding any action that may be taken under any law for the time being in force, whoever discloses information regarding the medical record of a person affected by leprosy to any person or entity, without the informed consent of such person or this or her representatives, shall be punishable with fine which may extend to one lakh rupees, unless such disclosure is made pursuant to any of the grounds mentioned under sub-section (2) of Section 27.
38. Whoever fails to produce any book, account or other document or to furnish any statement, information or particulars which, under this Act, or any order, regulation, or direction made, or given thereunder, which he or she is duty bound to produce or furnish, or to answer any question put in pursuance of the provisions of this Act, or of any order, regulation, or direction made, or given thereunder, shall be punishable with fine which may extend to twenty-five thousand rupees in respect of each offence, and in case of continued failure or refusal, with further fine which may extend to one thousand rupees for each day of continued failure, or refusal after the date on which the original order imposing punishment of fine was passed.
39. (1) Where any offence under this Act has been committed by an establishment, every person who, at the time the offence was committed, was the appointed head or was directly in charge of, and was responsible for the day to day functioning of the establishment, including its conduct of business, shall be deemed to be guilty of an offence, and shall be liable to be proceeded against and punished accordingly:
- Provided that nothing contained in Section 34, shall render any such person liable to any punishment provided in this Act, if it is proved that the offence was committed without the knowledge of such person, or that all due diligence was exercised by such person in order to prevent the commission of the offence.
- (2) Notwithstanding anything contained in Section 34, where an offence under this Act has been committed by an establishment, 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 other officer of the establishment, such person shall also be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly.
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 a complaint under this Act;
 - (b) brought proceedings under this Act against any person or establishment;
 - (c) furnished any information, or produced any document to any authority exercising or performing any power or function under this Act; or
 - (d) appeared as a witness in a proceeding under this Act.

Penalty for certain actions of individuals.

Penalty for failure to comply with orders of Ombudspersons.

Penalty for breach of confidentiality.

Penalty for failure to furnish information.

Offences by Establishments.

Prohibition of victimisation.

Court to try offences.	41. No court other than the court of a judicial Magistrate of the First Class shall take cognizance of an offence under this Act.	
Offences to be cognizable and bailable.	42. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, offences under this Act shall be cognizable and bailable.	2 of 1974.
	CHAPTER X	5
	REPEAL OF CERTAIN ENACTMENTS	
Substitution of certain terms.	43. Notwithstanding any other law for the time being in force, in all laws that are in force, and in all official records of the Government of India, State Governments, and establishments defined under sub-section (f) of section 2, the term 'leper' and such other terms in national, regional and local languages, shall be substituted by the term 'persons affected by leprosy', or any other term that bears the same meaning in the national, regional or local language.	10
Amendments to certain enactments.	44. The statutes and provisions enumerated in column I of the Schedule shall stand amended in accordance with the respective entries in column II of the Schedule.	
Act to have overriding effect.	45. 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.	15
	CHAPTER XI	
	MISCELLANEOUS	
Central Government to provide funds.	46. The Central Government shall, after due appropriation made by Parliament in this behalf, provide adequate funds, from time to time, for carrying out the purposes of this Act.	20
Act to be in addition to and not in derogation of any other law.	47. The provisions of this Act or the rules made thereunder shall be in addition to and not in derogation of any other law, rules, orders or instructions which provide any entitlement or benefit to persons affected by leprosy.	25
Action taken in good faith.	48. No suit, prosecution or other legal proceeding shall lie against any person for any action or omission which is done in good faith or intended to be done in pursuance of the provisions of this Act and the rules made thereunder.	
Power to remove difficulties.	49. (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 said difficulty: Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.	30
	(2) Every order made under this Section shall be laid, as soon as may be after it is made, before each House of Parliament.	35
Power to appropriate Government to make rules.	50. (1) Subject to the other provisions of this Act, the appropriate Government may, by notification in the official Gazette make rules for carrying out the provisions of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—	40
	(a) form, manner and the value of compensation that may be awarded to a person affected by leprosy or a member of the family of persons affected by leprosy under clause (c) of sub-section (3) of section 13;	

(b) form, manner and content of information required to be reported to the special employment exchange under sub-section (1) of section 20;

5 (c) form and manner of community-based rehabilitation for persons affected by leprosy and members of the family of such persons under clause (e) of sub-section (2) of section 21;

(d) form, manner and content of information required to be disclosed to obtain informed consent under clause (ii) of sub-section (1) of section 27;

(e) the composition, the requisite qualifications of the Ombudsperson and manner of appointment of Ombudspersons under sub-section (1) of section 28;

10 (f) the terms and condition of service of Ombudspersons under sub-sections (2) and (3) of Section 28;

(g) form and manner in which Ombudspersons are required to maintain records under sub section (3) of section 29;

15 (h) the form, manner and procedure for making a complaint to Ombudspersons under section 30; and

(i) the form, manner and content of orders that Ombudspersons can pass under section 31.

20 (3) Prior to the formulation of rules, the appropriate Government shall make available the draft of the rules in accessible formats to the members of the public and invite their suggestions and objections to the same.

25 (4) 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 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:

Provided that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

30 (5) 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.

SCHEDULE
(See Section 45)
AMENDMENT TO CERTAIN ENACTMENTS

Legislation	Amendment
16 of 1915.	<p>1. The Banaras Hindu University Act, 1915</p> <p>In sub-clause (a) of clause (1) of Section 12B, the words “or suffers from contagious leprosy” shall be removed, and the sub-clause will read as, namely:</p> <p><i>(a) if he is of unsound mind or is a deaf-mute;</i></p> <p>In sub-clause (a) of clause (1) of Section 32, the words “or suffers from contagious leprosy” shall be removed, and the sub-clause will read as, namely:</p> <p><i>(a) if he is of unsound mind or is a deaf-mute;</i></p>
29 of 1951.	<p>2. The Visva Bharati Act, 1951</p> <p>In sub-clause (a) of clause (3) of Section 38B, the words “or suffers from contagious leprosy” shall be removed, and the sub-clause will read as, namely:</p> <p><i>(a) is of unsound mind or is a deaf-mute; or</i></p>
53 of 1966.	<p>3. The Jawahar Lal Nehru University Act, 1966</p> <p>In sub-clause (a) of clause (1) of Section 23, the words “or suffers from contagious leprosy” shall be removed, and the sub-clause will read as, namely:</p> <p><i>(a) if he is of unsound mind or is a deaf-mute</i></p> <p>In sub-clause (a) of clause (1) of Section 31, the words “or suffers from contagious leprosy” shall be removed, and the sub-clause will be read as, namely:</p> <p><i>(a) if he is of unsound mind or is deaf-mute;</i></p>
39 of 1987.	<p>4. Legal Services Authorities Act, 1987</p> <p>After sub-clause (d) of Section 12, the following sub-clause shall be inserted namely:</p> <p><i>(dd) a person who suffers from, or has previously suffered or has been cured of Leprosy; or</i></p>
59 of 1988.	<p>5. The Motor Vehicles Act, 1988</p> <p>After the first proviso to sub-section (4) under Section 8 of the Act, the following proviso shall be inserted, namely:</p> <p><i>Provided further that the licensing authority shall not refuse to issue a learners licence to a person affected by Leprosy, who has been certified by a registered medical practitioner, as having either been cured of Leprosy, or as having been administered with the first dose under Multi-Drug Therapy, with continuing treatment for Leprosy being provided.</i></p>
Kerala Act No. X of 1953.	<p>6. The Nurses and Midwives Act, 1953</p> <p>In clause (c) of Section 6, the words “a leper” shall be removed, and the sub-clause will read as, namely:</p> <p><i>(c) if he is of unsound mind and stands so declared by a competent Court, or a deaf-mute;</i></p>
Karnataka Act No. 33 of 2001.	<p>7. The Hindu Religious Institutions and Charitable Endowments Act, 1997.</p> <p>In sub-clause (ii) of clause (5) of section 25, the words “or is suffering from leprosy” shall be removed, and the sub-clause will read as, namely:</p> <p><i>(ii) if he is of unsound mind and stands so declared by a competent courts or if he is a deaf or mute or any virulent or contagious disease.</i></p>

STATEMENT OF OBJECTS AND REASONS

The spread of leprosy and discrimination faced by persons affected by leprosy is a matter of grave concern. In 2015, India had the largest number of new leprosy cases, comprising 60% of all the cases reported globally. Approximately 1.25 to 1.35 lakh new cases are being reported every year in India for over a decade. The problem which is even more serious is that of discrimination and stigma faced by persons affected by leprosy and their families. They continue to face segregation, restrictions and exclusions within and outside family structures, in communities and public spaces, including public transportation systems. It is highly unfortunate that the discrimination being faced by these persons primarily stems from their affliction of a particular disease and its consequent effects on their body.

The General Assembly of the United Nations recognised the marginalised status of persons affected by leprosy and their family members and unanimously adopted a Resolution on the Elimination of Discrimination against Persons Affected by Leprosy and their Family Members in 2010. The Principles and Guidelines, which are appended to the Resolution of the General Assembly, direct Member States to accord to persons affected by leprosy and their family members certain protections and provisions that are necessary to bring them at par with others. Additionally, the United Nations Convention on the Rights of Persons with Disabilities, 2007 (“UNCRPD”) also promotes the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, while laying emphasis on the respect for their inherent dignity. Since India is a member of General Assembly of the United Nations as well as a signatory to both of these documents, it is under an obligation to address the concerns and eliminate discrimination against persons affected by leprosy and their family members.

Although the recently passed Rights of Persons with Disabilities Act, 2016 (“RPD Act”), intends to give effect to India’s obligations under the UNCRPD, it falls short of covering all persons affected by leprosy. In fact, only those persons who are cured of leprosy and who have 40% or above disability are covered within the ambit of the RPD Act. Hence, in terms of discrimination as well as State action, there is a pressing need to undertake a range of actions for the benefit of persons affected by leprosy and their family members. For one, it is imperative that, affirmative action and anti-discrimination measures be applicable to a range of persons, who may either be affected by leprosy, may be undiagnosed, may be under-going treatment, or may have been cured, as well as family members of such persons to holistically address the impact of stigma, fear, exclusion and invisibility faced by such persons. Another change that is necessary is the repeal and amendment of discriminatory provisions in various civil and criminal laws of India that legitimise discrimination and segregation of persons affected by leprosy on the grounds that leprosy is an incurable and highly infectious disease. As noted by the World Health Organisation, leprosy is now fully curable through Multi-Drug Therapy, which renders the infected individual non-contagious with its very first dose of treatment, and which is made available free of cost under the National Leprosy Eradication Programme of India. Consequently, the object and purpose sought to be served through these discriminatory provisions no longer hold ground and constitute a violation of the right of persons affected by leprosy to equality before law and equal protection of laws under the Indian Constitution. Since persons affected by leprosy continue to remain a highly marginalised, vulnerable and invisible section on the fringes of society, there is also a need for implementing positive steps to provide them with effective care, support and treatment, and Promote their social inclusion.

The Law Commission of India took note of the disparate situation of persons affected by leprosy and their families and came out with a study on the condition of persons affected by leprosy in India in its Report No. 256, titled “Eliminating Discrimination Against Persons Affected by Leprosy”. This comprehensive report, which deals with discriminatory laws as

well as positive measures for persons affected by leprosy and their family members, was submitted to the Ministry of Law & Justice on 9th April 2015, along with a model draft law to eliminate discrimination faced by persons affected by leprosy. However, little or no action seems to have been taken to either enact the model law, or modify or repeal any law that directly or indirectly discriminates against persons affected by leprosy.

While the Lepers Act, 1898, which sanctioned arrest and segregation of persons affected by leprosy into leper asylums, was repealed by Parliament in 2016, the provisions under some other enactments and legislations which discriminate against persons affected by leprosy continue to exist on the statute books, despite the fact that leprosy is completely curable, as mentioned by the Law Commission in its Report.

The long-standing discrimination faced by persons affected by leprosy and their families has continued to exclude such persons from participating in society and have resulted in the violation of their fundamental rights that are guaranteed to them under the Constitution of India. Moreover, term 'leper', which continues to be used in the provisions of several Central and State enactments, is nothing less than a profanity for persons affected by leprosy. Hence, enacting a law that promotes anti-discrimination measures and the social inclusion of persons affected by leprosy and their family members is imperative and urgent. Without the protection of human rights, there can be no democracy or justification for democracy. Undoing years of discrimination that the persons affected by leprosy and their family members have faced, requires immediate interventions by the State.

Hence this Bill.

K.T.S. TULSI

FINANCIAL MEMORANDUM

Clause 16 of the Bill provides for vocational training and self employment to persons affected by leprosy. Clause 18 provides for incentives by the appropriate Government to employers in the private sector in order to enable them to include persons affected by leprosy. Clause 21 provides for social security including financial assistance for income generating activities and market based vocational training for such persons affected by leprosy. Clause 22 empowers the appropriate Government and local authorities to take all necessary measures to ensure that each person affected by leprosy has barrier-free access to healthcare facilities. Clause 23 also seeks to provide services and programmes of rehabilitation, particularly in the areas of health, education and employment for all persons affected by leprosy and members of the family of persons affected by leprosy. Clause 24 provides for conducting training and awareness programmes for health care providers, public servants and general public. Clause 26 provides for provision of free of cost MDT to persons affected with leprosy. Clause 28 provides for appointment of ombudspersons for every State and UT. Clause 47 says that the Central Government after due appropriation by Parliament will provide adequate funds, from time to time, for carrying out the purposes of the Bill.

The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. The recurring and non-recurring expenditure on this count cannot be estimated at this stage, but has to be worked out by Central Government while implementing the provisions of the Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 51 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

RAJYA SABHA

A

BILL

to protect the human rights of persons affected by leprosy, to eliminate discrimination against them and their families to promote their social welfare, to take steps for the prevention and control of leprosy and for matters connected therewith or incidental thereto.

(Shri K.T.S. Tulsi, M.P.)

GMGIPMRND—1333RS(S3)—07.12.2021.

AS INTRODUCED IN THE RAJYA SABHA
ON THE 3RD DECEMBER, 2021

Bill No. XXXIX of 2021

THE SCHEDULED CASTES AND THE SCHEDULED TRIBES
(PREVENTION OF ATROCITIES) AMENDMENT BILL, 2021

A

BILL

*further to amend the Scheduled Castes and the Scheduled Tribes (Prevention of
Atrocities) Act, 1989*

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

1. (1) This Act may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2021.

Short title and
commencement.

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

Amendment
of section 3.

2. In the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the principal Act), in section 3, in sub-section (I):— 33 of 1989.

(i) after clause (h), the following clause shall be inserted, namely:— 5

"(ha) denies payment of minimum wages to a member of a Scheduled Caste or a Scheduled Tribe;"

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

"intentionally touches a woman belonging to a Scheduled Caste or a Scheduled Tribe, when such act of touching is of a sexual nature and is without the consent of the women;" 10

Insertion of
new Section
8(A).

3. After section 8 of the principal Act, the following section shall be inserted, namely:—

Investigation
and
monitoring of
cases of
atrocities.

"8A. (I) The State Government shall appoint at each district level a Deputy Superintendent of Police or a Circle Officer from Scheduled Caste or Scheduled Tribe communities as the Principal Investigating Officer to investigate offences of atrocities against Scheduled Castes and Scheduled Tribes. 15

(2) The State Government may form a panel of officers headed by an administrative officer, not below the rank of District Magistrate to monitor such cases in districts where cases of atrocities against persons belonging to Scheduled Castes or Scheduled Tribes are high." 20

Amendment
of Section
15A.

4. In section 15A of the principal Act:—

(i) in sub-section (8), after clause (c), the following clause shall be inserted, namely:—

"(d) issuing directions for payment of compensation to a victim or his dependent when the accused is proven guilty.

Provided the amount of compensation shall be proportionate to the gravity of offences." 25

(ii) in sub section (II), after clause (f), the following clause shall be inserted, namely:—

"(fa) to create a fund to bear the costs of paying the transportation allowance to the victims or victims' families for appearing in the courts and police stations and compensation for lost daily wages, if any;"

STATEMENT OF OBJECTS AND REASONS

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, which came into effect in 1990, was enacted with a view to provide protective cover to those belonging to these castes and tribes, keeping in mind, the Right to Life under Article 21.

Although, there have been various protective pieces of legislation to ensure the protective cover to Scheduled Castes/Scheduled Tribes communities, atrocities against them have been on rise. For instance, as per a report tabled in the Rajya Sabha in March 2021, while there has been an increase of 15.55 per cent in crimes against women and children from Scheduled Castes/Scheduled Tribes communities in the last three years (2017-2019), the conviction rate under Scheduled Castes and Scheduled Tribes (prevention of Atrocities) Act, 1989 during the same period has been as low as 26.86 per cent, with pendency at an alarming 84.09 per cent.

The Cambridge Dictionary defines 'atrocious' as 'an extremely cruel, violent, or shocking act. Atrocious can be physical as well as mental. For instance, utilizing full labour and not paying adequate wages just because the worker belongs to a certain category, class or religion in an example of atrocious in itself.

Crimes of sexual assault against Scheduled Castes/Scheduled Tribes women is a result of thinking emanating from the sub-conscious mind, where an Scheduled Castes/Scheduled Tribes woman is considered to be vulnerable as well as incapable of fighting for her dignity. As per the National Crime Record Bureau's (NCRB) report for the year 2019, there were 13,273 assault cases of beating stripping, kidnapping including 3,486 cases of rape, against women from Scheduled Castes communities. Wide-spread under-reporting, threatening the victim and her family, hesitation to report the crime from the victim itself, not registering FIRs, shoddily conducted investigation are some of the major problems faced by the victims of Scheduled Castes/Scheduled Tribes communities.

Moreover, lack of adequate financial resources of fight a legal case is a major impediment for the Scheduled Castes/Scheduled Tribes victims to continue with the legal proceedings.

A fund taking care of the transportation allowances and daily wages lost, if any, of victims will motivate the victims to not drop As the case due to inability to pay for the travel from their home to the Police Station and Court. The compensation declared by the Court, to be given to victim, shall be imposed as penalty on the accused, when proven guilty. The threat of becoming financially incapacitated will act as a deterrent to the perpetrator from committing future crimes against the Scheduled Castes/Scheduled Tribes.

No matter, how serious is the atrocious committed against the Scheduled Castes/ Scheduled Tribes, if the Investigation officer acts with the prejudices, then it is hard to expect justice being delivered. In such scenario, it becomes necessary that Deputy Superintendent of Police/Circle Officer from Scheduled Castes/Scheduled Tribes communities should be appointed as the Principal Investigating Officer to handle the case.

Hence, this Bill.

DR. NARENDRA JADHAV

ANNEXURE

EXTRACTS FROM THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989

(33 of 1989)

	*	*	*	*	*
Punishments for offences atrocities.		3.(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—			
	*		*	*	*
		(h) makes a member of a Scheduled Caste or a Scheduled Tribe to do “begar” or other forms of forced or bonded labour other than any compulsory service for public purposes imposed by the Government;			
	*		*	*	*
		(w) (i) intentionally touches a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe, when such act of touching is of a sexual nature and is without the recipient’s consent;			
	*		*	*	*
Presumption as to offences.		8. In a prosecution for an offence under this Chapter, if it is proved that—			
		(a) the accused rendered any financial assistance in relation to the offences committed by a person accused of, or reasonably suspected of committing, an offence under this Chapter, the Special Court shall presume, unless the contrary is proved, that such person had abetted the offence;			
		(b) a group of persons committed an offence under this Chapter and if it is proved that the offence committed was a sequel to any existing dispute regarding land or any other matter, it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object;			
		(c) The accused was having personal knowledge of victims for his family, the court shall presume that the accused was aware of the caste or tribal identity of the victim, unless the contrary is proved.			
Conferment of Powers.		9. (1) Notwithstanding anything contained in the Code or in any other provision of this Act, the State Government may, if it consider it necessary or expedient so to do—			
		a. for the prevention of and for coping with any offence under this Act, or			
		b. for any case or class or group of cases under this Act,			
		in any district or part thereof, confer, by notification in the Official Gazette, on any officer of the State Government, the powers exercisable by a police officer under the Code in such district or part thereof or, as the case may be, for such case or class or group of cases, and in particular, the powers of arrest, investigation and prosecution of persons before any Special Court.			
		(2) All officer of police and all other officers of Government shall assist the officer referred to in sub-section (1) in the execution of the provisions of this Act or any rule, scheme or order made thereunder.			
		(3) The provisions of the Code shall, so far as may be, apply to the exercise of the powers by an officer under sub-section (1).			
	*	*	*	*	*

15A. (1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence. Rights of victims and witnesses.

* * * * *

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Special Court or the Exclusive Special Court trying a case under this Act shall provide to a victims his dependent, informant or witnesses—

- (a) the complete protection to secure the ends of justice;
- (b) the travelling and maintenance expenses during investigation, inquiry and trial;
- (c) the social-economic rehabilitation during investigation, inquiry and trial; and
- (d) relocation.

* * * * *

(8) Without prejudice to the generality of the provisions of sub-section (6), the concerned Special Court or the exclusive Special Court may, on an application made by a victim or his dependent, informant or witness in any proceedings before it or by the Special Public Prosecutor in relation to such victims, informant or witness or on its own motion, take such measures including—

- (a) concealing the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public;
- (b) issuing directions for non-disclosure of the identity and addresses of the witnesses;
- (c) take immediate action in respect of any complaint relating to harassment of a victim, informant or witness and on the same day, if necessary, pass appropriate orders for protection:

Provided that inquiry or investigation into the complaint received under clause (c) shall be tried separately from the main case by such Court and concluded within a period of two months from the date of receipt of the complaint:

Provided further that where the complaint under clause (c) is against any public servant, the Court shall restrain such public servant from interfering with the victim, informant or witness, as the case may be, in any matter related or unrelated to the pending case, except with the permission of the Court.

* * * * *

RAJYA SABHA

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BILL

further to amend the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(Dr. Narendra Jadhav, M.P.)

MGIPMRND—1349RS(S3)—07-12-2021.

Bill No. XXXIII of 2021

THE UNIVERSAL HEALTH CARE BILL, 2021

A

BILL

to provide quality healthcare services to all citizens, regardless of their income status, social status, gender, religion with the end goal of improving health outcomes; to promote preventive healthcare over reactive healthcare and for matters connected therewith or incidental thereto.

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

CHAPTER-1

PRELIMINARY

- 5 1. (1) This Act may be called the Universal Healthcare Act, 2021.
 (2) It shall extend to the whole of India.
 (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commencement.

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 Pricing Strategy Committee appointed under section 9;

(c) "healthcare services" means all types of medical services, including, but not limited to preventive, promotive, palliative, curative and rehabilitative healthcare services;

(d) "hospital" means any government clinic, dispensary, medical first-aid centre, hospital, nursing home, medical consultancy centre, indoor treatment centre or a research centre, where patients are treated and includes a place where medical consultation is offered to a patient;

(e) "OPD" refers to the part of a hospital designed for the treatment of outpatients, people with health problems who visit the hospital for diagnosis or treatment, but do not at that time require hospitalisation or to be admitted for overnight care;

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

(g) "treatment" means any consultation, prescription, or investigation leading to diagnosis of disease, any type of treatment provided by any hospital and includes replacement of human organs and any treatment for physical and mental well-being of the patient;

CHAPTER II

RIGHTS AND ENTITLEMENTS

Inclusion of Primary Healthcare.

3. (1) The appropriate Government shall include the primary healthcare services in the Ayushman Bharat Insurance scheme or other such existing and future Government schemes, if any.

(2) The appropriate Government shall take necessary steps to ensure that the primary healthcare services, under the Ayushman Bharat Insurance scheme or other such existing and future Government schemes, if any, are available to all.

(3) No person shall be deprived of Primary Healthcare Services on social or economic grounds.

Inclusion of Out Patient Department (OPD) Services.

4. (1) The appropriate Government shall include the OPD services in the existing and future Government insurance schemes or programs, if any.

(2) The appropriate Government shall take necessary steps to ensure that the OPD services, under the Ayushman Bharat Insurance scheme or other such existing and future Government schemes, if any, are available to all.

(3) No person shall be deprived of OPD Services on social or economic grounds.

Right of caregiver to know about the treatment provided.

5. (1) The appropriate Government to ensure transparency shall mandate the hospitals and clinics to document the treatment provided to the patients in such manner as may be prescribed.

(2) The patient or the caregiver shall have access to their treatment document at all times during the treatment.

Explanation: for the purpose of this section, caregiver shall be mean—

(i) in the case of a minor patient, the biological parents;

(ii) in the case of a minor patient who is an orphan, the caretaker appointed by a competent authority;

(iii) in the case of an able adult patient, such person as may be authorised by the patient;

(iv) in case of an adult who is incapable of authorising anyone, the person responsible for admitting the patient in the hospital.

5 (3) The appropriate Government shall take necessary measures to ensure transparency in the medical treatment of the patient.

(4) Patient shall have the right to adequate and relevant information about the nature, cause of illness, provisional or confirmed diagnosis, proposed investigations and management, and possible complications to be explained at the level of his understanding in a language
10 known to him.

CHAPTER III

TRANSPARENCY-STRENGTHENING GOVERNMENT INFRASTRUCTURE

15 6. The appropriate Government, to ensure transparency shall create a public database and mandate the public hospitals to update all hospital related resources on weekly basis in such manner as may be prescribed.

Creation of a National Public Information Network of Hospitals.

7. (1) The appropriate Government shall enumerate the duties and responsibilities of the doctors and health care workers, which shall be accessible to the public, as may be prescribed.

Duties and Responsibilities of Doctors and Healthcare Personnel.

20 (2) The appropriate Government shall take necessary measures to ensure that the doctors and health care workers follow the prescribed duties.

(3) The appropriate Government shall conduct mandatory soft skills trainings including ethics training for all the doctors and healthcare personnel.

(4) The appropriate Government shall take strict action against any doctor or healthcare personnel not complying with duties and mandatory training.

25 8. (1) The appropriate Government shall introduce a grievance redressal mechanism for the patients and their caregivers.

Public Grievance Mechanism.

(2) The appropriate Government shall constitute a Committee at appropriate administrative levels, comprising of members from Civil Society and various inter-related Government Ministries/Departments to resolve the grievances, in such manner as may be
30 prescribed.

(3) The Committee shall ensure that a complaint is resolved within thirty days of its receipt.

(4) The appropriate Government shall take strict action against any kind of gross negligence by the doctor or healthcare personnel.

35 CHAPTER IV

ESTABLISHMENTS

9. (1) The Central Government shall, by notification in the Official Gazette, appoint a committee be known as Pricing Strategy Committee for carrying out the functions assigned under this Act and to promote more private participation.

Pricing Strategy Committee.

40 (2) The Committee shall consist of—

(i) a Chairperson;

(ii) one representative from each of the Union Ministries of Finance, Health and

Family Welfare, Minority Affairs, Social Justice and Empowerment, Tribal Affairs, as member;

(iii) one representative of the life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, as member;

(iv) one representative of the National Commission for Women, as member; 5

(v) one representative of the National Human Rights Commission, as member; and

(vi) one representative each from medical profession, banking service and one distinguished social worker, as member.

(3) The representatives under each category under clause (2) shall be constituted or choice in full manner or may be prescribed. 10

(4) The headquarter of the Committee shall be at New Delhi.

(5) The Central Government shall prescribe the manner of working and submission of reports by the Committee.

(6) The salary and allowances payable to and other terms and conditions of service of Chairperson and members of the Committee shall be such as may be prescribed. 15

Functions of the Committee.

10. (1) The Committee shall engage in consultation on a pricing strategy and shall propose a scientifically derived, inclusive pricing model for the private hospitals to be included in the Ayushman Bharat Scheme or similar existing or to be launched schemes and programs.

(2) The Committee may appoint Sub-Committees, state-wise to fast-track enrolment of private hospitals under the Ayushman Bharat Scheme or similar existing or to be launched schemes and programs. 20

(3) The Committee shall periodically review its pricing strategy and shall fix an upper limit on the price of the treatments in hospitals in case of exigencies.

CHAPTER V 25

DUTIES AND RESPONSIBILITIES OF STATE GOVERNMENTS

Raising awareness.

11. (1) The appropriate Government, shall conduct, sponsor, encourage, support or promote on a regular and continuous basis information campaigns and sensitization programmes to ensure that the rights recognized in this legislation are implemented, protected and promoted and also to promote quality services in Government hospitals. 30

Strengthening Government Health Infrastructure.

12. (1) The appropriate Government shall take necessary steps to improve the healthcare infrastructure and address the gaps identified through the public information network.

(2) The designated in-charge of the hospital shall be responsible to address the gap identified through the public information network.

(3) The appropriate Governments shall include primary healthcare and OPD services in state specific healthcare insurance schemes including but not limited to the schemes developed in alliance with the Ayushman Bharat Scheme. 35

CHAPTER VI

OFFENCES AND PENALTIES

Offences by establishments.

13. (1) Where any offence under this Act has been committed by an establishment, every person who, at the time the offence was committed, was the appointed head or was 40

directly in charge of, and was responsible to the establishment for the conduct of its business, as well as the establishment, shall be deemed to be guilty of the offence.

5 **14.** (1) Whoever fails to produce any book, account or other document or to furnish any statement, information or particulars, which, under this Act or any order, regulation or direction made or given thereunder, which he is duty bound to produce or furnish or to answer any question put in pursuance of the provisions of this Act or of any order, regulation or direction made or given thereunder, shall be punishable with fine which may extend to rupees twenty five thousand in respect of each offence, and in case of continued failure or refusal, with further fine which may extend to rupees one thousand for each day of continued failure or refusal after the date of original order imposing punishment of fine

10

Penalty for Failure to Furnish Information.

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

Rule making clause.

 (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.

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STATEMENT OF OBJECTS AND REASONS

Article 21 of the Indian Constitution protects the life and personal liberty of all the citizens. It ensures that no person shall be deprived of his life or personal liberty except according to procedure established by law. However, the current healthcare in India reflects the economic and social gap in accessing quality healthcare and draws attention to further measures that are required to be taken by the central Government to assure health to all citizens. The Government expenditure on health is only 1.6 per cent of Gross Domestic Product (GDP) and the public health infrastructure is inadequate and unequally distributed. Out-of-pocket payments are the predominant mode for financing healthcare in the country. This is grossly unfair and exposes a large number of households to catastrophic health expenditure, which has often been a contributing factor for rural and urban indebtedness.

2. In a positive development in 2018, India's National Health Protection Mission was unravelled as a universal health care plan aimed at offering 500 million families living in poverty up to Rupees 5 lakh of coverage each year. It could be the largest government-funded scheme in the world and act as a pivotal step towards universal health coverage. However, it does not cover the primary health care and OPD services. Thus, due to lack of enforceability of Directive Principles, right to health remains unenforceable for citizens.

3. The right to health is also internationally recognised as a fundamental human right. In 1946, the World Health Organisation stated in its Constitution that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition." This right is also included in the Universal Declaration of Human rights and in the International Covenant on Economic, Social and Cultural rights, of which India is a signatory.

4. The ongoing pandemic has also highlighted the gaps in the current healthcare model and the need for an accessible health care model.

5. It is important, as a nation, to prioritise health care for all, and take preventive measures instead of reactive measures. This can be done by a collaborative approach aligning the existing government schemes/ policies, the interest of the payers and providers, along with innovative partnerships. It will not only help us in mitigating the risks but will also act as a foundation for stronger social returns and set us on a path to realise accessible healthcare for all.

Hence, this Bill.

DR. FAUZIA KHAN

FINANCIAL MEMORANDUM

Chapter III and V proposes a grievance redressal mechanism and appropriate actions by the government. Clause 9 provides for establishing a pricing strategy committee, to ensure the inclusive pricing to onboard more private entities to the existing schemes. Clause II provides for awareness raising programme. Further, such Bills, if enacted, by Parliament or State Legislatures will involve expenditure recurring and non-recurring from the Consolidated Fund of India as well as Consolidated Fund of the concerned State. However, it is not possible to assess the actual financial expenditure likely to be incurred at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the appropriate Government to frame rules for carrying out the purposes of this Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

RAJYA SABHA

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BILL

to provide quality healthcare services to all citizens, regardless of their income status, social status, gender, religion with the end goal of improving health outcomes; to promote preventive healthcare over reactive healthcare and for matters connected therewith or incidental thereto.

(Dr. Fauzia Khan, M.P.)

MGIPMRND—1343RS—07-12-2021.

Bill No. XIV of 2021

THE WOMEN'S (RESERVATION IN WORKPLACE) BILL, 2021

A

BILL

to provide for reservation of posts for women in establishments and for matters connected therewith and incidental thereto.

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

1. (1) This Act may be called the Women's (Reservation in Workplace) Act, 2021.

(2) It extends to the whole of India.

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

(4) It applies to all establishments owned, established, controlled, managed or financed by the Central Government and includes—

10 (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;

Short title,
extent,
commence-
ment and
application.

(iii) a corporation in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government;

(iv) a university established by a Central Act and its affiliated colleges, including medical and engineering colleges and institutions;

(v) a primary or secondary school or any other educational institutions; 5

(vi) an industry, trade or business;

(vii) a Government company as defined under sub-section (45) of section 2 of the Companies Act, 2013; 18 of 2013.

(viii) an autonomous body, organisation or institution receiving grant or aid from the Consolidated Fund of India; and 10

(5) It may also apply to the private establishments to such extent and in such manner as they may voluntarily decide to apply to their establishments.

Definitions.

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

(a) “appointing authority”, in relation to a service or post in an establishment, means the authority empowered to make appointment to such service or post; 15

(b) “Chairperson” means the Chairperson of the Council on Women’s Welfare at Workplace, appointed under sub-clause (a) of clause (2) of section 14 of the Act;

(c) “Council” means the Council on Women’s Welfare at Workplace, set up under section 14 of the Act;

(d) “Group ‘A’ post” means a post which is classified as such by the President in exercise of the powers conferred by the proviso to article 309 of the Constitution or by or under any Act of Parliament and includes an equivalent post in any establishment; 20

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

(f) “promotion by non-selection” means promotion made on the basis of seniority-cum-fitness; 25

(g) “promotion by selection” means promotion made on the basis of merit-cum-seniority;

(h) “recruitment year” means the calendar year for which the recruitment is made;

(i) “scientific or technical post” means posts for which qualifications in natural sciences or exact sciences or applied sciences or technology are essential and the incumbent of such post shall have to use his or her knowledge in such sciences for discharge of duties. 30

Reservation for women in appointments by direct recruitment and promotion.

3. (1) The Central Government shall reserve not less than thirty percentage of posts for women for appointments in establishments by direct recruitment and promotion, in such manner, as may be prescribed. 35

(2) the vacancy reserved for women under sub-section (1) shall be filled in such manner, as may be prescribed.

No reservation in certain cases.

4. (1) Notwithstanding anything contained in section 3, there shall be no reservation where appointments are made— 40

(i) for a period of less than forty-five days;

(ii) where work is required for any emergency relief work;

(iii) to posts higher than the lowest grade of Group 'A' posts and to those classified as scientific or technical post; and

(iv) to posts in which employment of women is prohibited or restricted by or under any law for the time being in force.

5 (2) The Central Government may, by notification in the Official Gazette, exempt any institution of national importance and Indian Institutes of Management from the application of this Act.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.

10 **5.** In the case of promotion by selection from one Group 'A' post to another Group 'A' post which carries the scale of pay, the maximum of which is equal to or less than the maximum of the scale of pay of a Director in the Central Secretariat Service or equivalent posts in other establishments, women officers, who are fit to hold the post and are relatively senior so as to be within the number of vacancies for which the select list is to be drawn, shall
15 be included in such select list and considered for appointment.

Inclusion of women officers in select list in case of promotion within Group 'A'.

6. (1) The appointment to the unreserved vacancy shall be open to all eligible persons, including women.

Unreserved vacancies to be open to women.

(2) Where such unreserved vacancy is filled by direct recruitment or promotion by a women on the basis of merit, then, such person shall be appointed against the unreserved
20 vacancy.

7. The examination fee or application fee, determined for recruitment to a service or post through competitive examination or otherwise, shall be exempted or be reduced to such extent for women as may be prescribed.

Fee concession.

25 **8. (1)** Any standard of suitability, excluding the essential and desirable qualifications, required for appointment by direct recruitment to a post may be relaxed for women, if sufficient number of such candidates possessing requisite standards are not available to fill the vacancies reserved for them:

Relaxation in qualifications and experience.

Provided that no such appointment shall be made where the candidate is found unfit to hold the post.

30 (2) The experience required for appointment by direct recruitment to a post may be relaxed for women, if at any stage of selection, sufficient number of such candidates possessing the requisite experience are not available to fill the vacancies reserved for them.

35 **9. (1)** Where a qualifying examination is held to determine fitness of eligible persons for promotion by non-selection and sufficient number of women fulfilling the qualifying standards are not available to fill the vacancies reserved for them, such qualifying standards may be relaxed, consistent with the minimum standards of fitness required for appointment to the post, in the case of women.

Reservation in case of promotion.

40 (2) Where qualifying examination is held to determine merit of eligible persons for promotion by selection and sufficient number of women fulfilling the qualifying standards are not available to fill the vacancies reserved for them, such qualifying standards may be relaxed, consistent with the minimum standards of merit required for appointment to the posts, in the case of women.

10. The vacancies reserved for women shall be filled by women only.

Reserved Vacancies to be filled by women.

45 **11.** Where posts in an establishment are to be abolished and as a result thereof, the services of certain persons are required to be either surrendered or terminated, no such surrender or termination shall be made in respect of women, if it results in lowering their representation in relation to the percentage of reservation fixed for them.

Abolition of posts not to affect the representation of women.

Appointment
and duties of
Liaison
officer.

12. (1) Every establishment shall designate an officer of such rank, as may be prescribed, to function as a liaison officer for the purpose of ensuring that the provisions of this Act or the rules made thereunder or any direction of instruction issued by the Central Government regarding reservation are not contravened.

(2) The liaison officer shall, from time to time, inspect and verify the documents, records and reports with respect to appointments of women made by the appointing authority by direct recruitment or promotion. 5

(3) Where the liaison officer is satisfied that any establishment has contravened the provisions of this Act or the rules made thereunder or any direction or instruction issued, he shall submit a report of such contravention to the head of the establishment. 10

(4) On receipt of the report of contravention under sub-section (3), the head of establishment shall take disciplinary action under section 16 against the person responsible for such contravention.

Maintenance
of documents
and records
and furnishing
of reports by
appointing
authority.

13. (1) Every appointing authority, or an officer authorised by him in this behalf, shall maintain such documents and records, and furnish every year a report on the appointments of women made by direct recruitment and promotion, in such manner and at such time, as may be prescribed. 15

(2) The appointing authority or any other officer authorised by him shall make available such documents and records for inspection, furnish such information, and render such assistance, to the liaison officer, as may be necessary, to enable him to carry out his functions under this Act. 20

Council on
Women's
Welfare at
Workplace.

14. (1) The Central Government shall constitute a Council to be called the Council on Women's Welfare at Workplace.

(2) The Council on Women's Welfare at Workplace shall consist of the following members, namely— 25

(a) the Union Minister for Women and Child Development
Chairperson, Ex-officio,

(b) Secretary, Ministry of Women and Child Development
Member, Ex-officio,

(c) the Chairperson of the National Commission for Women 30
Member, Ex-officio,

(d) two prominent lawyers in the field of women's rights **Member**

(e) two social workers working in the field of women's rights **Member**

(3) The members of the Council, referred to in sub-clauses (c), (d) and (e) of clause (2) shall as soon as may be, choose one amongst themselves to be Vice-Chairperson of the Council for such period as they may decide. 35

(4) The Council shall make recommendations to the Central Government on—

(a) developing and organizing training programmes to advance the competence of women for appointment to services and posts;

(b) creating state bodies to carry out provisions of this Act at state level; 40

(c) providing necessary social services to enable parents to combine family obligations with work responsibilities, in particular through the promotion of establishments and development of a network of child-care facilities;

(d) formulating policies regarding flexible work schedules and other such policies that would attract and retain women in workplaces. 45

(e) any other matter relating to women's welfare at workplace, as the Council may decide.

(5) More than one half of the total number of members of the Council shall constitute the quorum at its meetings.

(6) The Council shall determine its own procedure in the performance of its functions.

(7) Every decision of the Council shall be taken at a meeting, by a majority of the members present and voting.

(8) No act or proceedings of the Council shall be invalid merely by reason of—

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

(b) any defect in the appointment of a person as a member of the Council; or

(c) any procedural irregularity of the Council not affecting the merits of the case.

(9) The Council may decide about the modalities to resolve disputes arising out of its recommendations.

(10) The term of office of the Members of the Council shall be such as may be prescribed.

(11) The Council shall, subject to such regulations as made in this behalf, appoint officers and other employees, as it may deem necessary.

(12) The Members, officers, and staff appointed by the Council subject to other conditions of service, shall be entitled to such remunerations as may be prescribed.

15. The Central Government shall take steps to incentivise private establishments to provide equal employment opportunities to women.

Central Government to incentive the private establishment.

16. Where any person responsible for implementing the provisions of this Act or the rules made thereunder, intentionally contravenes any of the provisions thereof, he shall be liable for disciplinary action under the service rules applicable to such person.

Disciplinary action for contravention of provisions of Act.

17. The Central Government may, for giving effect to the provisions of this Act or the rules thereunder, issue such directions to establishments, as it deems fit.

Power to issue directions.

18. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

(a) the manner of reservation under sub-section (1) of section 3;

(b) the manner of filling vacancies under sub-section (2) of section 3;

(c) the exemption, or the extent of reduction in examination fee and application fee under section 7;

(d) the rank of the officer to be designated as the liaison officer under sub-section (1) of section 12;

(e) the document of records to be maintained and the time and manner of furnishing report under sub-section (1) of section 13.

(3) Every rule made by the Central Government under this section shall be laid, as soon as may be, after it is made, before each House of the 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 promise of equal opportunity for women has remained as a mere promise in our country since independence. Though our Constitution has guaranteed these promises in terms of the fundamental right of equality, women are deprived of employment opportunities even if they are qualified and deserving. It is high time that the women community is unshackled from their discriminatory status in the society.

Article 15 of the Constitution of India further prohibits discrimination on the basis of sex, even as it allows for State to make special provisions for women. This is in line with the provisions on international conventions like the Universal Declaration of Human Rights (1948), the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (1979) [CEDAW]. Article 4(2) of CEDAW allows for special measures to be taken in the case of accelerating equality of men and women. This principle has been reiterated in Article 5 of Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

India has been a signatory of the United Nations and the International Labour Organisation Conventions recognising the equality of the sexes. Further, it has adopted legislations that uphold Equal Remuneration, Maternity Benefits, etc. However, women in many parts of the country are kept away from active participation in the workplace.

This Bill aims to ensure that women find a respectful position in the society by bringing an end to the discrimination meted out of them. The State shall endeavour to take a progressive step towards providing women 30% reservation in all workplaces across the country.

Hence this Bill.

TIRUCHI SIVA

FINANCIAL MEMORANDUM

Clause 14 of the Bill seeks to constitute a Council for Women's Welfare at Workplace. The Council shall function under the Chairmanship of the Union Minister for Women and Child Development and will have the Secretary of Ministry of Women and Child Development as a member, along with the Chairperson of the National Commission for Women, and two prominent lawyers and two social workers in the field of Women's Rights.

2. The creation of the Council will involve expenditure on account of office expenses, salaries and allowances of the officers and staff.

3. At this stage, it will be difficult to quantify the exact amount of expenditure of both recurring and non-recurring nature on account of the Constitution of the Council. Hence, the Bill, if enacted will involve expenditure from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Sub-clause (1) of clause 3 of the Bill empowers the Central Government to prescribe the manner of reservation by direct recruitment and promotion for women in establishments. Sub-clause (2) thereof empowers the Central Government to prescribe the manner of filling such vacancy.

2. Sub-clause (2) of clause 4 of the Bill empowers the Central Government to amend the Schedule, by notification in the Official Gazette, to include or, omit from, such Schedule any institution of national importance and Indian Institutes of Management.

3. Clause 7 of the Bill empowers the Central Government to prescribe the extent of fee concession for women.

4. Sub-clause (1) of clause 12 of the Bill empowers the Central Government to prescribe the rank of the officer who may be designated as the liaison officer.

5. Sub-clause (1) of clause 13 empowers the Central Government to prescribe the manner of maintaining documents and records, and the manner and time of furnishing report on appointments of women made by direct recruitment and promotion, by the appointing authority.

6. Clause 17 provides for Central Government to make rules for the purpose of carrying out the provisions of this Act.

7. The matters in respect of which rules may be made or notification may be issued are essentially matters of detail or procedure only. The delegation of legislative power is, therefore, of a normal character.

RAJYA SABHA

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BILL

to provide for reservation of posts for women in establishments and for matters
connected therewith and incidental thereto.

(Shri Tiruchi Siva, M.P.)

MGIPMRND—1331RS(S3)—07-12-2021.

Bill No. 151 of 2021

**THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES
(AMENDMENT) BILL, 2021**

A

BILL

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

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

1. (1) This Act may be called the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2021. Short title and commencement.

5 (2) It shall be deemed to have come into force on the 1st day of May, 2014.

61 of 1985. **2.** In section 27A of the Narcotic Drugs and Psychotropic Substances Act, 1985, for the words, brackets, letters and figure "clause (viii*a*) of section 2", the words, brackets, letters and figure "clause (viii*b*) of section 2" shall be substituted. Amendment of section 27A.

Repeal and savings.

3. (1) The Narcotic Drugs and Psychotropic Substances (Amendment) Ordinance, 2021 is hereby repealed.

Ord. 8 of 2021.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

5

STATEMENT OF OBJECTS AND REASONS

The Narcotic Drugs and Psychotropic Substances Act, 1985 (the NDPS Act) was enacted to consolidate and amend the law relating to narcotic drugs, to make stringent provisions for the control and regulation of operation relating to narcotic drugs and psychotropic substances, to provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances and to implement the provisions of the International Convention on Narcotic Drugs and Psychotropic Substances and for matters connected therewith. The NDPS Act was amended in the years 1989, 2001 and lastly in the year 2014.

2. Prior to the amendment of 2014 in the NDPS Act, clause (viiiia) of section 2 of the said Act, contained sub-clauses (i) to (v), wherein the term 'illicit traffic' had been defined. This clause was re-lettered as clause (viiiib) by the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2014, as a new clause (viiiia) in section 2 defining 'essential narcotic drugs' was inserted. However, inadvertently consequential change was not carried out in section 27A of the NDPS Act, at the time of amendment in section 2 by the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2014.

3. In a recent judgment, Hon'ble High Court of Tripura, passed in *Crl. Ref. 1/2020-Court on its Own Motion vs The Union of India* has held that 'until the appropriate legislative change occurs by amending section 27A of the NDPS Act appropriately, sub-clauses (i) to (v) of clause (viiiia) of section 2 of the NDPS Act shall suffer effect of deletion and bringing in sub-clauses (i) to (v) of clause (viiiib) of section 2 of the NDPS Act in that place' and directed to take appropriate steps for amendment as required in section 27A. Hence, with a view to have correct interpretation and implementation of the NDPS Act, it was decided to rectify the anomaly in section 27A of the Act by substituting 'clause (viiiib)' in place of 'clause (viiiia)' in section 27A.

4. As Parliament was not in session and urgent legislation was required to be made, the President promulgated the Narcotic Drugs and Psychotropic Substances (Amendment) Ordinance, 2021 (Ord. 8 of 2021) on the 30th September, 2021 for rectifying the said anomaly by substituting in section 27A of the NDPS Act, the reference of "clause (viiiib) of section 2", for "clause (viiiia) of section 2".

5. The amendment does not create any new offence but contains a legislative declaration that reference of clause (viiiia) always meant the corresponding renumbered provision in clause (viiiib) and the amendment seeks to rectify this anomaly by making changes in section 27A of the said Act in order to carry out the legislative intent of the statute, which has always been to read clause (viiiib) in section 27A, and already stood therein.

6. The Bill seeks to replace the aforesaid Ordinance.

NIRMALA SITHARAMAN.

NEW DELHI;
The 2nd December, 2021.

ANNEXURE

EXTRACT FROM THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985

(61 OF 1985)

* * * * *

Punishment
for financing
illicit traffic
and harbouring
offenders.

27A. Whoever indulges in financing, directly or indirectly, any, of the activities specified in sub-clauses (i) to (v) of clause (viii) of section 2 or harbours any person engaged in any of the aforementioned activities, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

* * * * *

LOK SABHA

A
BILL

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

(Smt. Nirmala Sitharaman, Minister of Finance)

MGIPMRND—1262LS(S3)—02-12-2021.