

CENTRAL LEGISLATION

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I INTRODUCTION

THIS REVIEW of central legislation provides an exhaustive overview and examination of the legal developments that took place in the year 2013. The milestone accomplishment of Parliament in 2013 is the legislation that brought in criminal law amendment. It is a very important legislation in the context of gender or sexual violence. It brings in major amendments to Indian Penal Code 1860 (IPC), Indian Evidence Act, 1872 and Code of Criminal Procedure, 1973 (Cr PC) that were enacted by the British towards the end of nineteenth century. Likewise, another parliamentary triumph is the passing of new land law which brought in fair compensation and transparency in land acquisition, rehabilitation and resettlement. Other remarkable legislative developments are passing of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 and the National Food Security Act, 2013. In a nutshell, this survey on central legislation highlights the main changes or progress of law in the year 2013 through the law-making process.

II BANKING

The Securities and Exchange Board of India (Amendment) Act, 2013

The Securities and Exchange Board of India (SEBI), established by the Securities and Exchange Board of India Act, 1992 is the regulator for the securities markets in India. The Securities Appellate Tribunal (SAT) adjudicates on appeals against decisions made by SEBI. SAT is headed by the presiding officer, who should be the sitting or retired Supreme Court judge or a sitting or retired chief justice of a high court. Hence, The Securities and Exchange Board of India (Amendment) Bill, 2013 was introduced to extend eligibility criteria for SAT presiding officer's role and includes sitting or retired Judges of a high court with a minimum service of seven years. The Bill was initially introduced as the ordinance on 21.01.2013. However, the Lok Sabha was adjourned before it could consider a Bill to replace the ordinance, which lapsed on 04.04.2013. It then lapsed and another ordinance was promulgated on 29.05.2013 with the same provisions. This

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Act has been introduced to replace and repeal the second ordinance.

III CRIMINAL LAW

Criminal Law Amendment Act, 2013¹

By way of the Criminal Law Amendment Act 2013, the IPC 1860, the Cr PC 1973, the Indian Evidence Act, 1872 and the Protection of Children from Sexual Offences Act, 2012 got amended. It amended the sections 100, 228A, 354, 370, 370A, 375, 376, 376A, 376B, 376C, 376D and 509 of IPC. It further brought amendments and inserted new offences such as acid attack,² attempt to acid attack,³ sexual harassment,⁴ act with intent to disrobe a woman,⁵ voyeurism,⁶ stalking⁷ etc. under IPC. It also inserted new sections on public servant disobeying direction under law,⁸ and punishment for non-treatment of victim.⁹ By 166A and B if a public servant knowingly disobeys or fails to record information as prescribed by provisions of Cr PC, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Under the amendment, by way of section 354A, a man who makes unwelcome sexual advances, forcefully shows pornography or demands/requests sexual favours from a woman commits the offence of sexual harassment *simpliciter* which attracts imprisonment of up to three years. There are also other categories of sexual harassment that have been listed as separate offences under the amendment. If a

1 No. 13 of 2013

2 S. 326A.

3 S. 326B.

4 S. 354A- Physical contact and advances involving unwelcome and explicit sexual overtures; or a demand or request for sexual favours; or making sexually coloured remarks; or forcibly showing pornography; or any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

5 S. 354B- Assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked

6 S. 354C- Watching or capturing a woman in "private act", which 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, buttocks or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the person is doing a sexual act that is not of a kind ordinarily done in public.

7 S. 354D- To follow a woman and contact, or attempt to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or monitor the use by a woman of the internet, email or any other form of electronic communication. There are exceptions to this section which include such act being in course of preventing or detecting a crime authorised by State or in compliance of certain law or was reasonable and justified.

8 S. 166A.

9 S. 166B.

man assaults a woman with the intent of removing her clothes or compelling her to be naked, he commits an offence under section 354B, which is punishable with imprisonment between three and seven years. If a man watches a woman engaged in private activities, when the woman does not expect anyone to be watching, he has committed the offence of voyeurism under section 354C. This is made punishable with imprisonment of one to three years for the first time, and three to seven years for subsequent convictions. Stalking is punishable with imprisonment of up to three years for the first time, and five years for the subsequent convictions.

Acid has been defined as any substance which has a corrosive nature. It may include bleach, bathroom, toilet acid *etc.* Under section 326A a person who throws or administers acid on another person and causes damage or deformity is liable for an imprisonment that is not less than ten years, and may extend to life imprisonment. The fine collected under section 326A is to be granted to the victim for medical expenses. An attempt to throw acid upon a person is met with imprisonment of up to seven years, but not less than five years for the attacker, under section 326B.

It also amended sections 26, 54A, 154, 160, 161, 164, 173, 197, 273, 309, 327 and first schedule of Cr PC. Sections 154, 160 and 161 of the Cr PC, 1973 amended for providing women and male person under the age of eighteen years or above the age of sixty-five years more protections. Further, it inserted new sections 357B and 357C of Cr PC. The most important change that has been made is the change in definition of rape under IPC. Although the ordinance sought to change the word rape to sexual assault, in the Act the word 'rape' has been retained in section 375, and was extended to include acts in addition to vaginal penetration.¹⁰ In Indian Evidence Act, 1872 it amended sections 114, 119 and 146 and inserted new sections 53A wherein evidence of the character of the victim or of his or her previous sexual experience shall not be relevant or questioned. It also amended section 42 of Protection of Children from Sexual Offences Act, 2012.

If a person is apprehensive of being hurt by an acid attack, that person has a right of private defence which extends to causing the death of the attacker. The right of private defence under section 100 extends even to the causing of the death of an attacker under certain circumstances such as an assault from which it may be clear that death or hurt are likely to follow, an assault with the intention of committing rape or satisfying unnatural lust upon a person, an assault made with

10 The definition is broadly worded with acts like penetration of penis, or any object or any part of body to any extent, into the vagina, mouth, urethra or anus of another person or making another person do so, applies of mouth or touching private parts constitutes the offence of sexual assault. The section has also clarified that penetration means 'penetration to any extent', and lack of physical resistance is immaterial for constituting an offence. Except in certain aggravated situation the punishment will be imprisonment not less than seven years but which may extend to imprisonment for life, and shall also be liable to fine. In aggravated situations, punishment will be rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

the intention of kidnapping and an assault intended for wrongful imprisonment.

IV COMPANY LAW

The Companies Act, 2013¹¹

The Act replaces the 1956 Act and consolidates a number of its provisions. The Act received the assent of the President on 29th August, 2013 and it consolidates and amends the law relating to companies. The Act seeks to strengthen corporate governance by introducing new provisions related to independent directors and auditors. The Act increases penalties and establishes special courts to try offences. The Act shifts the onus of regulation and oversight over management away from the government and towards shareholders. It provides for stricter standards of approval by shareholders over some types of management decisions. Further, the Act permits certain financial relationships between independent directors and the company, which can lead to conflicts of interest. Fines have been increased and the range of offences which are punishable by imprisonment has been widened. The Act does not require proof of intent to commit an offence as a condition for criminal prosecution.

It makes comprehensive provisions to govern all listed and unlisted companies in the country. The amendment has introduced new concept of class action suits with a view of making shareholders and other stakeholders, more informed and knowledgeable about their rights. It increased the number of maximum shareholders in a private company from 50 to 200. It also provides major aspect on approvals from shareholders on various significant transactions. The shareholders have been vested with the power to sanction the limit for managerial remuneration. It also stipulates appointment of at least one woman director on the board of the prescribed class of companies.

Certain class of companies has to spend a certain amount of money every year on activities/initiatives reflecting corporate social responsibility (CSR).¹² The board have to ensure to spend 2% of average profits of last 3 years on CSR. It is applicable to companies having net-worth of Rs.500 crore or more or turnover of Rs.1000 crore or more or net profit of Rs.5 crore or more. Companies are also required to constitute CSR committee.

It also introduced National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT) consisting of combination of technical and judicial members to replace the Company Law Board (CLB) and Board for Industrial and Financial Reconstruction (BIFR).¹³ It permits cross border mergers, both ways; a foreign company merging with an India company and *vice versa* but with prior permission of RBI.¹⁴ Concept of fast track merger without the requirement of a court process is introduced to facilitate merger between two or more small

11 No. 18 of 2013.

12 S.135

13 Ch. 27.

companies or between holding company and its wholly owned subsidiary.¹⁵

The amendment prohibits directors and key managerial personnel from purchasing call and put options of shares of the company, its holding company and its subsidiary and associate companies as if such person is reasonably expected to have access to price-sensitive information (being information which, if published, is likely to affect the price of the company's securities).

A maximum limit of 15 directors is imposed for the board unless approved by a special resolution in annual general meeting (AGM). Every company shall have at least one director who has stayed in India for a total period of not less than 182 days in the previous calendar year.¹⁶ Participation of directors through video conferencing or by other audio visual means is recognized for the purpose of quorum.¹⁷

The maximum number of persons/partners in any association/partnership may be up to such number as may be prescribed but not exceeding one hundred. This restriction will not apply to an association or partnership, constituted by professionals like lawyer, chartered accountants, company secretaries, *etc.* who are governed by their special laws. Now there can be private company with one director and one shareholder. Issue of equity shares with differential rights would have to be in accordance with such rules as may be prescribed. This has been made applicable to even private companies now.¹⁸ Notices for board and general meetings sent by electronic mode are recognised in the statute.¹⁹

All listed companies should have at least one-third of the board as independent directors. Such other class or classes of public companies as may be prescribed by the central government shall also be required to appoint independent directors. No independent director shall hold office for more than two consecutive terms of five years.

V CONSTITUTION

The Constitution (Scheduled Tribes) Order (Amendment) Act, 2013²⁰

This Act brought in amendments to the Constitution (Scheduled Tribes) Order, 1950 to modify the list of Scheduled Tribes in the States of Kerala and Chhattisgarh.

14 S. 234

15 S. 233

16 S.149

17 S.174

18 S. 43

19 S. 101

20 No. 24 of 2013.

VI FOOD SECURITY

The National Food Security Act, 2013²¹

This Act provides for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity and for matters connected therewith or incidental thereto. The Act provides for coverage of upto 75% of the rural population and upto 50% of the urban population for receiving subsidized foodgrains under targeted public distribution system (TPDS), thus covering about two-thirds of the population. Upto 75% of the rural population and 50% of the urban population will be covered under TPDS, with uniform entitlement of 5 kg per person per month. Since *Antyodaya Anna Yojana* (AAY) households constitute poorest of the poor, and are presently entitled to 35 kg per household per month, entitlement of existing AAY households will be protected at 35 kg per household per month. State-wise coverage will be determined by the central government.

The chapter II of the Act deals with provisions for food security wherein it identifies right to receive food grains at subsidised prices by persons belonging to eligible households under TDPS.²² Foodgrains under TPDS will be made available at subsidised prices of Rs.3/2/1 per kg for rice, wheat and coarse grains for a period of three years from the date of commencement of the Act.

There is special focus on the nutritional support to women and children. It provides for meal to pregnant women and lactating mothers during pregnancy and six months after the child birth. Such women will also be entitled to receive maternity benefit of not less than Rs. 6,000. Children upto 14 years of age will be entitled to nutritious meals as per the prescribed nutritional standards. In case of non-supply of entitled foodgrains or meals, the beneficiaries will receive food security allowance. Under chapter IX, obligations of state government for food security, the Act states that priority households, children in the age group of 6 months to 6 years, children aged 6-14 years are entitled to food grains per person per month, For children who suffer from malnutrition, meals will be provided to them free of charge through local *anganwadi*.

Chapter X prescribes with the obligations of local authorities wherein it deals with the implementation of TPDS by local authority in their areas. The Act also provides for the creation of state food commissions. The main function of the state commission is to monitor the implementation of the Act, give advice to the states governments and their agencies and inquire into violations of entitlements.²³ The food commissions have powers to impose penalties.²⁴ The main obligation of the central government is to provide foodgrains (or, failing that, funds) to state

21 No. 20 of 2013.

22 Ch.II of the Act.

23 S. 16.

24 Ch. XIII of the Act.

governments, at prices specified in schedule I, to implement the main entitlements. The central government has wide-ranging powers to make rules “in consultation with the state government”. The main obligation of state governments is to implement the relevant schemes, in accordance with the central government guidelines.

State governments also have wide-ranging powers to make rules. They are free to extend benefits and entitlements beyond what is prescribed in the Act, from their own resources.²⁵ Provision for food security allowance to entitled beneficiaries in case of non-supply of entitled foodgrains or meals.

Central government will provide assistance to states in meeting the expenditure incurred by them on transportation of foodgrains within the state, its handling and FPS dealers’ margin as per norms to be devised for this purpose. The Act sets up grievance redressal mechanism at the district and state levels. States will have the flexibility to use the existing machinery or set up separate mechanism.

The Act has four schedules. Schedule I prescribes issue prices for the PDS. Schedule II prescribes “nutritional standards” for midday meals, take-home rations and related entitlements. Schedule III lists various “provisions for advancing food security”. Schedule IV specifies a minimum foodgrain allocation for each state; in the case of states that might lose otherwise under the Act, this essentially means a continuing of existing allocations.

VII LAND LAW

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013²⁶

This Act was passed by the Parliament during monsoon session 2013. This Act replaced the Land Acquisition Act of 1894 by establishing new rules for compensation as well as resettlement and rehabilitation. The Act mandates preliminary investigation for determination of social impact and public purpose.²⁷ Further there is a clause on ‘public hearing for social impact assessment’²⁸ and its publication.²⁹ The other important section is appraisal of social impact assessment report by an expert group.³⁰ There is also a special provision to safeguard food security.³¹ Another significant aspect of the Act is that the developers will require

25 *Ibid.*

26 No. 30 of 2013

27 Ch. III of the Act.

28 S. 5.

29 S. 6.

30 S. 7.

31 S. 10.

the assent of up to 80 per cent of people whose land is acquired for private projects and of 70 per cent of the landowners in the case of public-private partnership projects. Further the Act provides for compensation as high as four times as the earlier practice in rural areas and two times in urban areas. Sections 27, 28 and 29 of the Act deal with the determination of amount of compensation and its parameters. Chapter VI deals with the procedure and manner of rehabilitation and resettlement. The Act also mandates for the setting up of a national monitoring committee for rehabilitation and resettlement³² and establishment of land acquisition, rehabilitation and resettlement authority.³³ Offences and penalties are laid down under chapter XII and the schedule deals with compensation as per land value. Over five chapters and two entire schedules have been dedicated to outlining elaborate processes and entitlements for resettlement and rehabilitation. The second schedule in particular outlines the benefits such as land for land, housing, employment and annuities that shall accrue in addition to the one-time cash payments. Likewise, the Act applies retrospectively to cases where no land acquisition award has been made. Also in cases where the land was acquired five years ago but no compensation has been paid or no possession has taken place then the land acquisition process will be started afresh in accordance with the provisions of this Act.

Undoubtedly, this Act ensures a humane, participative, informed and transparent process for land acquisition for industrialisation, development of essential infrastructural facilities as acquisition is to be made in consultation with institutions of local self-government and *Gram Sabhas* established under the Constitution. The urbanisation should cause only the least disturbance to the owners of the land and other affected families. It also tries to ensure and provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post acquisition social and economic status and for matters connected therewith or incidental thereto.

VIII MANUAL SCAVENGING

The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013³⁴

Article 17 of Constitution of India prohibits manual scavenging. Further, the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 prohibits the engagement or employment of persons for manually carrying

32 Ch. VII of the Act.

33 Ch. VIII of the Act.

34 Act No. 25 of 2013.

human excreta and further prohibits the construction or maintenance of dry latrines. Since this Act was not effective, and there was no conviction till date under the Act, the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 was enacted for prohibition of employment as manual scavengers and rehabilitation of manual scavengers. Primarily it deals with the prohibition of employment as manual scavengers, rehabilitation of manual scavengers and their families, and for matters connected therewith or incidental thereto. The new Act, thus replaced the 1993 Act and it has widened the scope. Through the new Act, the definition of manual scavenger³⁵ got widened and it included many new provisions so as to prevent a total ban on manual scavenging. Insanitary latrines and open drains or pits into which human excreta is disposed are included in the definition of a manual scavenger under section 2(g) of the Act. It further has provisions for rehabilitation of manual scavengers and their family members as well. The Act mandates local authorities to survey insanitary latrines and provide sanitary community latrines.³⁶ Chapter III deals with the penalty and chapter IV deals with the identification and rehabilitation of a manual scavenger. Manual scavengers who are identified in urban areas receive a photo identity card detailing dependent family members. They are to be allotted a residential plot and assistance for construction or a ready-built house, scholarship for children, training in a livelihood skill for him, and subsidy and concessional loan for taking up an alternative occupation. Legal and programmatic assistance will also be provided as notified by the central or state government.

The Act also mandates the setting up of vigilance committee³⁷ and central monitoring committee.³⁸ The Act has a wider scope for higher penalties than what was provided under the 1993 Act. Offences under the Act are cognizable and non-bailable and may be tried summarily.

IX HIGHWAY ACT

The National Highways Authority of India (Amendment) Act, 2013³⁹

By way of the new Act a single amendment was made on the National Highways Authority of India Act, 1988. The Act mandates the formation of National Highways Authority consisting of a chairman, not more than six full-time members, not more than six part-time members to be appointed by the central government by notification in the official gazette.⁴⁰

35 S. 2 (g).

36 S. 4.

37 Ch. VII of the Act

38 Ch. VIII of the Act.

39 No. 19 of 2013

40 S.3 (3) of the National Highways Authority of India Act, 1988.

X PENSION

The Pension Fund Regulatory And Development Authority Act, 2013⁴¹

Pension Fund Regulatory and Development Authority was established by the Government of India on 23.08.2003 to promote old age income security by establishing, developing and regulating pension funds, to protect the interests of subscribers to schemes of pension funds and for matters connected therewith or incidental thereto. The Act conferred the statutory status to the interim Pension Fund Regulatory and Development Authority Act (PFRDA) to develop and regulate National Pension System (NPS) earlier known as new pension scheme.⁴²

XI PREVENTION OF DISQUALIFICATION

The Parliament (Prevention of Disqualification) Amendment Act, 2013⁴³

This Act amended the Parliament (Prevention of Disqualification) Act, 1959. The Act brought in amendment to section 3.⁴⁴ It substituted, “(ii) the National Commission for the Scheduled Castes constituted under clause (1) of article 338 of the Constitution; (iia) the National Commission for the Scheduled Tribes constituted under clause (1) of article 338A of the Constitution;”.

XII PROTECTION OF WOMEN

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013⁴⁵

As the introductory text of the Act suggests, this is an Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto. the Act states that sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15

41 No. 23 of 2013.

42 S. 12.

(1) This Act shall apply to-

(a) the National Pension System;

(b) any other pension scheme not regulated by any other enactment.

(2) Every pension scheme referred to in clause (b) shall conform to the regulations made by the Authority within such time as may be specified in the regulations.

43 No. 28 of 2013.

44 Certain offices of profit not to disqualify.— It is hereby declared that none of the following offices, in so far as it is an office of profit under the Government of India or the government of any state, shall disqualify the holder thereof for being chosen as, or for being, a member of Parliament.

45 No. 14 of 2013.

of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment. The protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).

The Act has defines, the term ‘sexual harassment’ under section 2(n), term ‘employee’ under section 2(f) and ‘workplace’ section 2(o). Sexual harassment at the workplace is defined in the Act in a comprehensive manner, in keeping with the definition laid down in the *Vishaka* judgment, and broadening it further to cover circumstances of implied or explicit promise or threat to a woman’s employment prospects or creation of hostile work environment or humiliating treatment, which can affect her health or safety. It includes such unwelcome sexually determined behaviour (whether directly or by implication) such as:

- i. Physical contact and advances;
- ii. Demand or request for sexual favours;
- iii. Sexually coloured remarks;
- iv. Showing pornography; and
- v. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Definition of ‘employee’ covers regular/temporary/ad hoc/daily wage employees, whether for remuneration or not and can also include volunteers. The definition of employer includes the head of the government department/organisation/institution/office/branch/unit, the person responsible for management/supervisions/control of the workplace, the person discharging contractual obligations with respect to his/her employees and in relation to a domestic worker the person who benefits from that employment. While the “workplace” in the *Vishaka* guidelines is confined to the traditional office set-up where there is a clear employer-employee relationship, the Act goes much further to include organisations, department, office, branch unit *etc* in the public and private sector, organized and unorganized, hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by the employee during the course of employment including the transportation.

The Act contemplates the constitution of internal complaints committee (ICC)⁴⁶ at the work place and local complaints committee (LCC) at district and block levels.⁴⁷ All workplaces employing 10 or more than 10 workers are mandated under the Act to constitute an ICC. The ICC will be a 4 member committee under the chairpersonship of a senior woman employee and will include 2 members from amongst the employees preferably committed to the cause of women or has experience in social work/legal knowledge and includes a third party member (such as NGOs) as well. LCC will be a five member committee comprising of a

chairperson to be nominated from amongst eminent women in the field of social work or committed to the cause of women, one member from amongst women working in block/taluka/tehsil/municipality in the district, two members of whom at least one shall be a woman to be nominated from NGOs committed to the cause of women or a person familiar with the issues related to sexual harassment provided that at least one of the nominees should preferably have a background in law or legal knowledge. The concerned officer dealing with the social welfare or women and child development shall be an *ex officio* member. A complaint of sexual harassment can be filed within a time limit of 3 months. This may be extended to another 3 months if the woman can prove that grave circumstances prevented her from doing the same. The committee is required to complete the inquiry within a time period of 90 days. On completion of the inquiry, the report will be sent to the employer or the district officer, as the case may be, they are mandated to take action on the report within 60 days. All ICCs have to submit annual reports to the employer who in turn will submit it to the district officer. All LCCs shall submit their annual report to the district officer. The district officers have to submit the report annually to the state governments. The central government has to provide financial assistance to the states to meet the expenditure payable to the members of the LCC.

The Act has provisions for providing reliefs to the aggrieved woman in the interim period including leave and transfer during the pendency of the inquiry. Aggrieved woman, who will get protection under the Act includes all women, irrespective of her age or employment status, whether in the organised or unorganised sectors, public or private and covers clients, customers and domestic workers as well.

A district officer (district collector or deputy collector) is responsible for facilitating and monitoring the activities under the Act. Every employer is obliged to create an environment which is free from sexual harassment. Employers are required to organize workshops and awareness programmes at regular intervals for sensitizing the employees about the provision of this legislation and display notices regarding the constitution of internal committee, penal consequences of sexual harassment *etc.*

XIII REPRESENTATION

The Representation of the People (Amendment and Validation) Act, 2013⁴⁶

Representation of the People Act, 1951 was already amended several times. This 2013 amendments brought about changes in sections 7 and 62 of the parent Act, *i.e.*, Representation of the People Act, 1951. It received the assent of the President on the 20th September, 2013.

46 S. 4 of the Act.

47 S. 6 of the Act

XIV UNIVERSITY

The Rajiv Gandhi National Aviation University Act, 2013⁴⁹

This Act brought amendments in sections that dealt with establishment,⁵⁰ objects,⁵¹ powers of University⁵² etc. Section 10 of the Act states that the following shall be the officers of the University:—

- (1) the Chancellor;
- (2) the Vice-Chancellor;
- (3) the Deans of Schools;
- (4) the Registrar;
- (5) the Finance Officer;
- (6) the Controller of Examinations; and
- (7) such other officers as may be declared by the Statutes to be officers of the University.

Further, the Act also deals with each of these office bearers' functions and powers. This Act sought to establish and incorporate a national aviation University to facilitate and promote aviation studies and research to achieve excellence in areas of aviation management, policy, science and technology, aviation environment, training in governing fields of safety and security regulations on aviation and other related fields to produce quality human resources to cater to the needs of the aviation sector and to provide for matters connected therewith.

XV WAKF ACT

The Wakf (Amendment) Act, 2013

This Act⁵³ brought in amendments to the Wakf Act, 1995. Under the amendments encroachment of *wakf* properties is made a cognisable and non-bailable offence and it provides for a maximum punishment of two years rigorous imprisonment⁵⁴. This Act aimed at checking rampant encroachment of *wakf* properties and to make them commercially viable by extending their lease period from merely three years to thirty years.

The very idea of *waqf* was visualized by the second Caliph, Hazrat Umar, as property not meant for profit-making, but for nourishing society. *Waqf* has been defined the amendment as such a way that it shall be a *waqf* regardless of the endower being a Muslim or non-Muslim and that it would be treated as a *waqf* for

48 No. 29 of 2013

49 No. 26 of 2013

50 S. 3.

51 S. 4.

52 S. 5.

53 No. 27 of 2013.

all legal purposes. Under the new definition, *waqf* means the permanent dedication by any person, of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable and includes— (i) a *waqf* by user but such *waqf* shall not cease to be a *waqf* by reason only of the user having ceased irrespective of the period of such cesser; (ii) a Shamlat Patti, Shamlat Deh, Jumla Malkkan or by any other name entered in a revenue record; (iii) “grants”, including *mashrat-ul-khidmat* for any purpose recognised by the Muslim law as pious, religious or charitable; and (iv) a *waqf-alal-aulad* to the extent to which the property is dedicated for any purpose recognised by Muslim law as pious, religious or charitable, provided when the line of succession fails, the income of the *waqf* shall be spent for education, development, welfare and such other purposes as recognised by Muslim law, and “*waqif*” means any person making such dedication.

Encroachment has been defined elaborately well. Section 3 (ee) now defines “encroacher” as any person or institution, public or private, occupying *waqf* property, in whole or part, without the authority of law and includes a person whose tenancy, lease or licence has expired or has been terminated by *mutawalli* or the board. Every state government has to maintain a list of *auqaf*. The revenue department officials have to finalise land records in view of the list of the *waqfs* and complete the mutation. Each state should complete the survey within a year’s time so that no *waqf* property remains unregistered.

Under section 6, for the words “any person interested therein”, the words “any person aggrieved” has been substituted. It is a positive effect with regards to disputes in the courts concerning *waqf* properties. The power of the board to sell, exchange, and mortgage or to gift has been done away with. While section 104A prohibits sale, gift, exchange, mortgage or transfer of *waqf* property, section 104B stipulates restoration of *waqf* properties in occupation of government agencies to the *waqf* board. As per the amendments in section 51, the power of the board to sell, exchange, and mortgage or to gift has been done away with but for the development of the *waqf* the state boards have been given wide ranging powers. The tenure for the lease of the *waqf* properties has been fixed to 30 years.

The *waqf* tribunal is now be tri-member including an Islamic scholar apart from the Judge and the representative of the administration. By virtue of section 108, no other law shall have any adverse effect on the *waqf* property. The state *waqf* boards are now answerable to the central *waqf* council. This is a long awaiting amendment.

XVI CONCLUSION

The Indian Parliament in the survey year has been instrumental in making social change and progress through legislations on important issues facing the nation, thus, paving the way for good governance. The Criminal Law Amendment Act, 2013 is against the sexual violence and seeks to Indian society from heinous

sexual crimes such as rape, molestation, disrobing and parading of women and stalking which are very prevalent in the contemporary Indian society. The Waqf Act, 2013 strengthens the waqf council's powers and requires every state to establish a *waqf* board. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 aims at man-woman harmony at workplace and obliges employers to create harassment free environment at workplace boosting confidence level of the women folk. The onset of 2014 saw many other landmark legislations such as *Lokpal* and *Lokayuktas* Act, 2013 that got presidential assent on 01.01 2014 which will be discussed in the upcoming survey.

