

SRMUH LAW REVIEW



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SRMUH/VCO/F.NO. 16-8-2024

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Vice-Chancellor

FOREWORD

Dear Readers,

Our nation stands on the threshold of a transformative era, wherein a robust legal framework and its effective implementation will be paramount. The theme of inaugural issue of SRMUH Law Review, reverberates with the spirit of progress and development. The Volume engages in intuitive deliberations and critical analyses of contemporary legal issues falling within the national and International legal landscape. This broad spectrum of discourse highlights critical areas such as constitutional issues like linguistic rights, transformative constitutionalism, tax reforms and fiscal federalism, forensic psychiatry, and voice identification. The articles and research papers compiled in this volume offer pragmatic solutions, policy recommendations, and actionable insights, aiming to enrich the legal landscape with innovative and forward-thinking perspectives.

The critical constitutional topic covered under the volume is transformative constitutionalism, a concept that emphasizes the role of constitutions in achieving social justice and equity. Another key constitutional issue highlighted by this volume is pertaining to the protection and promotion of linguistic rights, outlining the importance of constitutional freedoms to preserve cultural heritage in a multicultural and multilingual nation like India. Further the concept of fiscal federalism is scrutinized, exploring how financial resources and taxing powers are distributed among different levels of government addressing the challenges of achieving a balanced fiscal federal system, focusing on issues such as revenue sharing, fiscal autonomy, and intergovernmental transfers.

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The volume also ventures into the intersection of law and forensic sciences, particularly forensic psychiatry and voice identification. Forensic psychiatry, as a specialized field, plays a crucial role in the criminal justice system by assessing the mental state of individuals involved in legal proceedings, whereas the admissibility of voice identification evidence in courts, highlights the importance of legal safeguards required to prevent wrongful convictions.

In this inaugural issue, specific emphasis is placed on the transformative impact of technological advancements, particularly those driven by Artificial Intelligence (AI) and Industry 4.0 and Quantum Technology. The correlation of law and technology is thoroughly examined, with discussions on how legal systems can adapt to the rapid automation, and digital innovation. Articles address the ethical considerations and regulatory challenges posed by these technologies, highlighting the need for a dynamic legal framework that can respond to new realities. The volume also covers the opportunities presented by quantum technology, such as enhanced cybersecurity and unprecedented computational capabilities, while also addressing the significant challenges associated with incorporation of Quantum technology such as issues related to Intellectual Property and data privacy. The role of academic discourse is underlined as essential in routing these transformations, offering critical insights and fostering a deeper understanding of how law can guide technological progress in a manner that is both innovative and socially responsible. Through rigorous analysis and scholarly debate, the volume seeks to equip policymakers, legal professionals, and academics with the knowledge needed to effectively govern the technological landscape of the future.

This journal stands as a testament to the dynamic evolution of our legal framework. It is through the collective wisdom and scholarly contributions of our esteemed contributors that we aspire to ignite meaningful discourse and inspire transformative action. As Vice-Chancellor, I am honoured to write a foreword to this inaugural issue, which embarks on a journey of intellectual exploration and critical inquiry in times to come. We hope this journal will contribute significantly to the robust legal deliberations bringing out suggestions for policy makers to reflect upon the new challenges and solutions. I invite all readers to engage with the content and share their perspectives. I congratulate the editorial team under the leadership of Editor-in-Chief, Prof. (Dr.) Vijay Kumar Singh for this inaugural volume of SRMUH Law Review.



(Paramjit S. Jaswal)

EDITORIAL NOTE

We are pleased to present the inaugural issue of the SRMUH Law Review. The SRMUH Law Review Volume I is launched at a pivotal moment in India's journey, coinciding with the inception of 'Amrit Kaal' and the culmination of the 'Aazadi ka Amrit Mahotsav' celebrations. As India looks ahead to its aspirations for a developed India@100, a robust legal framework and its effective implementation will be paramount.

This inaugural issue aims to encapsulate the spirit of these celebrations and contribute to the nation's legal discourse by providing in-depth analyses and stimulating debates on contemporary legal issues. The diverse topics covered in this volume are at the forefront of current legal debates and developments, offering insights and recommendations crucial for the nation's progress. Each of the eleven articles in this issue presents a unique perspective on the evolving landscape of law, addressing critical areas such as constitutional dilemmas, fiscal policies, technological advancements, human rights, and more.

This volume of the journal begins with an exploration of some major issues in law and policy transformation in India which would have an impact in the 'Amrit Kaal' by Dr. Vijay Kumar Singh, the Editor-in-Chief of the journal. It is emphasised that having clarity and stability around various legal issues through legislature and the judiciary would be crucial for India to progress on the path towards 'Viksit Bharat @100'.

Roopesh Dev R. delves into the Indian judiciary's role in balancing religious freedom with social reform through the lens of transformative constitutionalism. This article focuses on the judiciary's use of the "essential religious practice" test, arguing that while this test has been pivotal in protecting religious practices, it often collides with the principles of social reform and constitutional morality. Through detailed case analyses, including landmark judgments such as the Sabarimala verdict and the Triple Talaq case, the author illustrates how the judiciary can respect religious autonomy while simultaneously advancing social justice. Mr Dev advocates for a nuanced approach where the judiciary remains a guardian of constitutional values without undermining religious freedoms.

Akanksha Jain and Mudit Saxena provide a critical examination of the Citizenship (Amendment) Act, 2019 (CAA), exploring its implications on India's secularism and democratic ethos. The authors argue that the CAA, by selectively granting citizenship based on religion, challenges the foundational principles of equality and non-discrimination enshrined in the Indian Constitution. They highlight the Act's potential to polarize communities and

engender socio-political instability. By juxtaposing the CAA with international human rights standards, the authors underscore the need for a balanced approach that harmonizes national security concerns with the protection of fundamental human rights. Their analysis calls for judicial scrutiny and public discourse to address the Act's constitutional validity and societal impact.

Zoya Farah Hussain's article assesses the impact of the Goods and Services Tax (GST) regime on India's fiscal federalism. Through an examination of financial data and governance structures, Hussain discusses how the centralized GST system has affected state autonomy and revenue generation. The author highlights the initial promises of GST to simplify the tax system and boost economic growth, contrasting these with the practical challenges and inequities faced by various states. By analysing the GST Council's functioning and the contentious issue of compensation to states, the article proposes reforms to ensure a more equitable revenue distribution and a truly cooperative federalism.

Nishit Ranjan Chaki explores the intricate balance between linguistic human rights and linguistic claim-rights within the Indian constitutional framework. Focusing on Articles 21-A, 29, and 30, the article presents an empirical analysis of how these provisions have been interpreted and implemented. Mr Chaki argues that while these articles aim to protect linguistic diversity and educational rights, there exists a significant gap between legal provisions and their practical enforcement. The study reveals the challenges faced by linguistic minorities in accessing quality education and preserving their linguistic heritage. The author calls for stronger legal mechanisms and policy interventions to bridge this gap, ensuring that linguistic rights are not merely theoretical but actionable and effective.

Ayush Tripathi and Smriti Sharma investigate the phenomenon of juvenile delinquency and the process of desistance from crime, focusing on the transition from adolescence to adulthood. The authors provide a comprehensive analysis of the socio-legal factors influencing juvenile offenders' rehabilitation, including family dynamics, educational opportunities, and community support systems. The article emphasizes the importance of a rehabilitative rather than punitive approach to juvenile justice, advocating for policies that support positive youth development and reintegration into society. Through case studies and statistical data, the authors demonstrate how effective interventions can significantly reduce recidivism rates and promote long-term desistance from crime.

Ashwin Singh's article addresses the intersection of forensic psychiatry and the COVID-19 pandemic, highlighting the exacerbated mental health challenges faced by incarcerated individuals during the crisis. Mr Singh discusses the strain on forensic psychiatric services and the broader implications for the criminal justice system. The article explores how the pandemic has

intensified issues such as overcrowding in prisons, limited access to mental health care, and increased instances of mental health disorders among inmates. Mr Singh also advocates for integrating comprehensive mental health care within the criminal justice system, proposing reforms that include telepsychiatry, improved mental health screening, and targeted therapeutic interventions to support the mental well-being of incarcerated individuals.

Kanika Aggarwal reviewed the judicial perspectives on the admissibility and reliability of voice identification evidence in legal proceedings. The authors critically examine the technological advancements in voice recognition and their implications for justice delivery. she highlighted the potential pitfalls and biases associated with voice identification, emphasizing the need for stringent standards to ensure the accuracy and fairness of such evidence. Through an analysis of key judicial decisions, the article underscores the importance of corroborative evidence and the role of expert testimony in mitigating the risks of wrongful convictions. Mrs Aggarwal advocate for judicial prudence and the development of comprehensive guidelines to govern the use of voice identification evidence.

Dr Subhajt Chakraborty explores the transformative potential of artificial intelligence (AI) in enhancing compliance and governance policies. The article presents a forward-looking perspective on how AI can streamline regulatory processes, improve transparency, and ensure ethical governance. Chakraborty discusses various AI applications, such as predictive analytics, automated compliance monitoring, and AI-driven decision-making, illustrating their potential to revolutionize corporate governance. The author also addresses the ethical and legal challenges posed by AI, including issues of accountability, data privacy, and the need for robust regulatory frameworks. By balancing innovation with caution, the article envisions a future where AI significantly contributes to more effective and responsible governance.

Dr Yatin Kathuria and Manpreet Kaur navigate the legal implications of quantum technology, discussing its potential to revolutionize various sectors, including cryptography, computing, and data security. The authors argue for the development of robust legal structures to manage the rapid advancements in quantum technology, ensuring they align with existing legal principles and societal values. The article explores the opportunities presented by quantum technology, such as enhanced cyber security and computational capabilities, while also addressing the challenges, including regulatory gaps and the need for international cooperation. The authors also advocate for proactive legal and policy measures to guide the ethical and responsible development of quantum technology.

Bhavyadeep Singh analyses the intricacies of tax devolution and revenue sharing in India's federal structure. The article examines the constitutional provisions and practical mechanisms for distributing financial resources between

the central and state governments. Singh discusses the challenges of achieving fiscal balance and equity, highlighting the role of the Finance Commission in addressing these issues. Through a critical review of recent Finance Commission recommendations and their impact on state finances, the author proposes measures to enhance fiscal autonomy and cooperation among states. The article underscores the need for a dynamic and responsive fiscal federalism framework that promotes equitable growth and fiscal stability.

Aarya Jha in her paper explores the role of environmental taxation as a response to rising pollution levels in India. Despite existing international agreements and national laws, significant environmental challenges persist. She advocates for the expanded application of eco-taxation, emphasizing its potential to enforce the polluter pays principle and align with India's commitments under the Paris Agreement. The paper argues that eco-taxation could bridge gaps in current legislation and drive sustainable development.

Dr Govind Yadav and Dr Parineeta Goswami addresses the complex issue of deepfakes in India. Their paper examines the legal and technical challenges posed by deepfake technology, which threatens identity security and spreads misinformation. The authors assess current legal frameworks and explore technological solutions such as AI and blockchain for detecting deepfakes. They propose a comprehensive regulatory framework to address these challenges effectively.

The inaugural volume of the SRMUH Law Review stands as a beacon of scholarly rigor and intellectual diversity, reflecting the dynamic landscape of contemporary legal discourse. Each article in this volume contributes to a deeper understanding of critical legal issues, offering nuanced perspectives and thoughtful analyses that are both academically enriching and practically relevant.

—Editorial Board

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A PRELUDE

‘*Aazadi ka Amrit Mahotsav*’ to vision for ‘*Amrit Kaal*’ – Exploring the major issues in Law and Policy transformation in India.

—Dr Vijay Kumar Singh*

India celebrated its *Aazadi Ka Amrit Mahotsav*¹ - India@75, which included campaigns around nine major themes, i.e., Women and Children, Tribal Empowerment, Water, Cultural Pride, Lifestyle for Environment (LiFE), Health and Wellness, Inclusive Development, *Aatmanirbhar Bharat* and Unity. The *Aazadi Ka Amrit Mahotsav* concluded on 15th August 2023, however, with this ushered in the vision for India@100 – the *Amrit Kaal* with the objective of empowered and inclusive economy.² India celebrated its 75 years of freedom on 15th August 2022. At his Independence Day speech on 15th August 2021, Hon’ble Prime Minister of India shared his vision of making India a developed nation by 2047, referring to this period as ‘*Amrit Kaal*’.³ The economic agenda for achieving this vision focuses upon (i) facilitating ample opportunities for citizens, especially the youth, to fulfil their aspirations; (ii) providing strong impetus to growth and job creation; and (iii) strengthening macro-economic stability. Thus, the *Aatmanirbhar Bharat* philosophy segways into the foundation stone of *Amrit Kaal* providing the guiding light for the coming 25 years for India.⁴

Aatmanirbhar Bharat was in the form of a package which not only aimed at providing economic stimulus post COVID but was a comprehensive scheme

* Professor and Dean, Faculty of Law, SRMUH Editor-in-Chief, SRMUH Law Review.

¹ An initiative of the Government of India to celebrate and commemorate 75 years of independence and the glorious history of its people, culture and achievements <<https://amritmahotsav.nic.in/>> (the initiative has five themes (*Panch Pran*) i.e. freedom struggle, ideas@75, resolve@75, actions@75 and achievements@75).

² Press Information Bureau, “Budget 2023-24 Presents Vision for Amrit Kaal-Blue Print for an Empowered and Inclusive Economy” (Feb. 1, 2023), available at <<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1895313>>.

³ Parliament Library and Reference, Research, Documentation and Information Service (LARRDIS), “Vision India@2047: Transforming the Nation’s Future”, available at <https://loksabhadocs.nic.in/Refinput/New_Reference_Notes/English/16012024_112431_102120474.pdf>.

⁴ Singh, Vijay Kumar, *Promoting Aatmanirbhar Bharat in International Trade for Fair Competition and Greater Good of the World*, in CEERA-NLSIU publication, 2024 (on file under publication by the author).

for bringing in slew of reforms with an objective of making India self-reliant which contributed to the progress of the whole world. *Aatmanirbhar Bharat* rested on the following five pillars:

- *Economy* with quantum jump rather incremental changes
- *Infrastructure* which is robust and projects India as a destination for global investment
- *System* which is dynamic and runs with the modern times
- *Demography* which is vibrant and skillful source of energy and
- *Demand* which reflects the growth potential for every stakeholder in the supply and consumption chain. The focus shall be not only on quantity but also quality to meet the global standards.

Each of these pillars were addressed by the government through a variety of measures, at the core of which was reforms in law and policy to enable an eco-system which promoted unhindered growth.

While India has been exploring several bilateral opportunities in terms of Free Trade Agreements (FTAs),⁵ regional arrangements,⁶ and emerging as preferred destination for foreign investment and manufacturing and hub, at the core it is bound by its philosophy of *Vasudhaiva Kutumbakam*. India was at the helm of the G-20 presidency for 2023 and provided the theme of G-20 Summit as “*Vasudhaiva Kutumbakam*” or “*One Earth · One Family · One Future*”.⁷ Prime Minister of India while making commitment at COP26 also emphasized as follows:

सम्-गच्छ-ध्वम्

सम्-व-दद्वम्

सम् वो मानानसि जानताम्।

⁵ So far, India has signed 13 Free Trade Agreements (FTAs) with its trading partners, including the 3 agreements, namely, India-Mauritius Comprehensive Economic Cooperation and Partnership Agreement (CECPA), India-UAE Comprehensive Partnership Agreement (CEPA) and India-Australia Economic Cooperation and Trade Agreement (IndAus ECTA) signed during the last five years. See Ministry of Commerce & Industry, “FTAs” <<https://pib.gov.in/PressReleasePage.aspx?PRID=1814151>>.

⁶ For example, India is part of the Quadrilateral Security Dialogue (QSD), commonly known as the Quad – A Strategic Security Dialogue between Australia, India, Japan and the United States of America <<https://pib.gov.in/PressReleasePage.aspx?PRID=1827892>>.

⁷ G-20 – Logo and Theme, available at <<https://www.g20.org/en/g20-india-2023/logo-theme/>> The theme also spotlights LiFE (Lifestyle for Environment) with its associated, environmentally sustainable and responsible choices, both at the level of individual lifestyles as well as national development, leading to globally transformative actions resulting in a cleaner, greener and bluer future.

Today in the 21st century, this mantra has become more important, has become more relevant.

सम्-गच्छ-ध्वम - That is, let's move together सम्-व-ददम् - That is, let's all inter-act together and सम् वो मानानसि जानताम् - That is, everyone's minds should also be one.⁸

Amrit Kaal focuses upon five resolves or pledges (the *Paanch Pran*) to ensure a Developed India (*Viksit Bharat*) by 2047. These five resolves are (i) a resolve of making India a developed nation (ii) removing the trace of any colonial mindset (iii) taking pride in our legacy (iv) believing and practicing the 'strength of unity' and (v) fulfilling the duties of the citizens with honesty.⁹

The Union Budget 2022-23 laid the foundation and gave a blueprint to steer the economy over the *Amrit Kaal* of the next 25 years – from India at 75 to *Bharat* at 100. The Union budget for 2023-2024 was the first budget in the *Amrit Kaal*, which envisioned India as a technology-driven and knowledge-based economy with strong public finances and a robust financial sector.¹⁰ “To achieve this, *Jan Bhagidari* (public participation) through *Sabka Saath Sabka Prayas* (everyone's support, everyone's effort) is essential”.¹¹ The finance minister provided for the Three-Four-Seven formula¹² which included the '*sap-tarishi* principle'.¹³ While launching the '*Viksit Bharat@20247* (Developed India@20247) campaign, the need for involvement of every citizen has been highlighted.¹⁴ Everyone has to contribute their bit in making India a developed nation – *Amrit Kaal* is *Kartavya Kaal* – a quarter century of duty. *Amrit Kaal*

⁸ National Statement by Prime Minister Shri Narendra Modi at COP26 Summit in Glasgow, Nov. 1, 2021 <<https://pib.gov.in/PressReleasePage.aspx?PRID=1768712>>.

⁹ “PM's Address to the Nation from the Ramparts of the Red Fort on the Occasion of 76th Independence Day”, Aug. 15, 2022, available at <https://www.pmindia.gov.in/en/news_updates/pms-address-to-the-nation-from-ramparts-of-the-red-fort-on-the-occasion-of-76th-independence-day/> also see Press Information Bureau, “English Rendering of Prime Minister's Address from the Ramparts of Red Fort on 76th Independence Day” <<https://pib.gov.in/PressReleasePage.aspx?PRID=1851994>>.

¹⁰ Government of India, “Budget 2023-24, Speech of Nirmala Sitharaman”, (Minister of Finance, Feb. 1, 2023) available at <https://www.indiabudget.gov.in/doc/bspeech/bs2023_24.pdf>.

¹¹ *Id.* para 11.

¹² The economic agenda for achieving this vision focuses on three things: first, facilitating ample opportunities for citizens, especially the youth, to fulfil their aspirations; second, providing strong impetus to growth and job creation; and third, strengthening macro-economic stability. To service these focus areas in our journey to India@100, we believe that the following four opportunities can be transformative during Amrit Kaal: (i) economic empowerment of women; (ii) PM Vishwakarma Kaushal Samman (PM Vikas) (iii) tourism; and (iv) green growth.

¹³ The Budget adopts the following seven priorities. They complement each other and act as the 'Saptarishi' guiding us through the Amrit Kaal. 1) Inclusive Development. 2) Reaching the Last Mile. 3) Infrastructure and Investment. 4) Unleashing the Potential. 5) Green Growth. 6) Youth Power. 7) Financial Sector.

¹⁴ Press Information Bureau, “PM Launches 'Viksit Bharat @2047: Voice of Youth'” (Ministry of Education, Dec. 11, 2023) available at <<https://pib.gov.in/PressReleaseFramePage.aspx?PRID=1985077>>.

shall also witness several reforms in law and policy to drive the various developmental agenda. Driving ease of doing business, sustainability practices and law reforms have to be accelerated. Some important developments in law and policy sphere in 2023, which would shape the next 25 years of *Amrit Kaal* may be highlighted as follows:

1. DECOLONIZATION OF LAWS

One of the five resolves of *Amrit Kaal* is coming out of the colonial mindset of slavery. In 1945, the Charter of the United Nations referred to the “*respect for the principle of equal rights and self-determination of peoples*” while spelling out the purposes of the Organization. When the United Nations was established in 1945, 750 million people - almost a third of the world’s population then - lived in Territories that were non-self-governing, dependent on colonial Powers.¹⁵ India got its independence on August 15, 1947 and thus became a sovereign legislative power to affect or repeal all the existing laws including the Government of India Act of 1935 and the British Statutes which were extended to India.¹⁶

However, it may be noted that the British Laws continued to operate by virtue of the provisions of the Constitution of India which provided for ‘continuance in force of existing laws’ in Article 372 until it is ‘altered, repealed or amended by a Competent Legislature’.¹⁷ The Fifth Report of the *Law Commission of India*¹⁸ emphasized the necessity of having Indian Statutes:

While India still remains a Member of the Commonwealth of Nations, the only trace of the old ties is the fact that the Crown is regarded by India as the symbolic Head of the Commonwealth. There is no longer any legal tie between the United Kingdom and India. It is, therefore in the fitness of things, that the entire legal Code of India should be purely Indian and if the subject-matter of any British statute be found to be still necessary for our purposes, that statute should be replaced by a corresponding Indian law,

¹⁵ The United Nations and Decolonization, see <<https://www.un.org/dppa/decolonization/en/about>>.

¹⁶ Independence Act, 1947, s. 6.

¹⁷ Constitution of India, art. 372 (1) Notwithstanding the repeal by this Constitution of the enactments referred to in art. 395 but subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent legislature or other competent authority. Independence Act, 1947, and the Government of India Act, 1935, art. 395, together with all enactments amending or supplementing the latter Act, but not including the Abolition of Privy Council Jurisdiction Act, 1949.

¹⁸ Law Commission of India, “5th Report on British Statutes Applicable to India” (1957), available at <https://lawcommissionofindia.nic.in/report_first/>.

*incorporating the necessary provisions of the British Statute. While India was a British Dependency, she was governed, like the colonies, by Acts of the Imperial Parliament in matters relating to external affairs and extra-territorial jurisdiction, such as extradition, merchant shipping, piracy and offense on the high seas, admiralty jurisdiction and the like. It is but proper that after having attained a fully sovereign status, India should have laws of her own relating to these subjects.*¹⁹

There are several British era legislations which can be reviewed in the next 25 years and be replaced with an Indian version of the laws.²⁰ Some of these legislations may be enumerated as the Indian Contract Act, 1872, Indian Easement Act, 1882, Indian Police Act, 1861, the Code of Civil Procedure, 1908, the Prisons Act, 1894, the Negotiable Instruments Act, 1881, Indian Tolls Act, 1851, etc.

2. THE NEW CRIMINAL LAWS

The Major Criminal Laws in India comprises of the (i) Indian Penal Code (IPC), 1860 (ii) The Code of Criminal Procedure (CrPC)²¹ and (iii) the Indian Evidence Act, 1872. These three legislations got a complete overhaul in 2023 and is being replaced with (i) *Bhartiya Nyaya Sanhita (BNS)*, 2023, (ii) *Bharatiya Nagarik Suraksha Sanhita (BNSS)*, 2023 and (iii) *Bharatiya Sakshya Adhinyam (BSA)*, 2023. These three new legislations seek to change the nature of the law towards providing justice rather than punishment and is considered to be a step forward to remove traces of colonial mindset.²² Amendment of Criminal Laws in India has been a long-drawn process, which is evident from several amendments already carried out in these legislations, also several

¹⁹ *Id.*, para 11.

²⁰ See the List Central and State Acts at the India Code, available at <<https://www.indiacode.nic.in>>.

²¹ The Code of Criminal Procedure of 1882 created by Britishers got revamped in 1973 based on the recommendations of the 41st Law Commission Report. However, CrPC has seen several amendments thereafter. Also see 111th and 128th Reports on the Criminal Law (Amendment) Bill, 2003 and the Code of Criminal Procedure (Amendment) Bill, 2006 of the Parliamentary Standing Committee of Home Affairs.

²² Parliament of India, Rajya Sabha, "Report 246 on the Bharatiya Nyaya Sanhita, 2023", Department Related Parliamentary Standing Committee on Home Affairs Chaired by Shri Brij Lal, (November 2023) available at <https://sansad.in/getFile/rsnew/Committee_site/Committee_File/ReportFile/15/188/246_2023_12_15.pdf?source=rajyasabha>.

reports of the Law Commission of India²³ and other Committees like *Malimath Committee*, *Madhav Menon Committee* and the latest NLUJ Committee.²⁴

The changes in the Criminal Laws have been subjected to a lot of apprehensions, especially from the opposition. They recommended for a consultation period of about 1.5 years and listed participation of various stakeholders before the new criminal laws get enacted.²⁵ The debates around the new criminal laws would continue throughout the *Amrit Kaal*, while jurisprudence on the subject would keep developing. There are more than 3 crore criminal cases pending before courts in India.²⁶ After the new law would come into force, for some time, the old and new laws have to be applied simultaneously, repealed one for the cases registered before the enforcement of new laws and another for cases registered after enforcement of new laws. *Amrit Kaal* has to go through this transition from the old to the new.

The new criminal laws focus upon modernizing the criminal investigation and trial with use of electronic mechanisms, forensic investigations, electronic presentation of evidence have been introduced. The sedition law is proposed to be eliminated so as to uphold the citizen's right to speak, punishment for offences against women and children have been made stringent. A new type of punishment in the form of community service has been introduced. There are 21 new offences introduced, including hate crimes and mob lynching. It also introduces offences like terrorism, organized crime, and hate speech and redefines sedition as acts endangering national integrity (treason).²⁷

3. REPEAL OF OBSOLETE LAWS

Repeal or weeding up of obsolete laws is as important as legislating new laws. A legislative enactment cannot be rendered ineffective by mere non-use or obsolesce. The long desuetude of a law does not amount to its repeal, it has

²³ There were more than 89 Reports of the Law Commission dealing with various aspects of the criminal law reforms. See "Committee for Reforms in Criminal Laws" <<https://criminallawreforms.in/law-commission-of-india-reports/>>.

²⁴ National Law University Delhi, The Committee for Reforms in Criminal Laws has been set up by the Ministry of Home Affairs, Government of India, vide its notifications "1-2-19 Judicial Cell (Part I)" dated 2-3-2020, 4-5-2020 and 29-5-2020 with the mandate "to recommend reforms in the criminal laws of the country in a principled, effective, and efficient manner which ensures the safety and security of the individual, the community and the nation; and which prioritises the constitutional values of justice, dignity and the inherent worth of the individual."

²⁵ Report 246, *supra* note 22. See the dissenting notes from the Members of Parliament.

²⁶ See National Judicial Data Grid, available at <<https://njdg.ecourts.gov.in/njdgnew/index.php>>.

²⁷ India's New Criminal Laws: Legal Experts Break Down the Nitty Gritties of Some Key Changes in Bharatiya Nyaya Sanhita <<https://economictimes.indiatimes.com/news/india/bns-vs-ipc-how-bhartiya-nyaya-sanhita-is-different-from-old-ipc-law-legal-experts-break-down-the-nitty-gritties-of-some-key-changes/articleshow/111408786.cms?from=mdr>>.

to be specifically repealed. The Law Commission of India has emphasized the need for periodical revision and repeal of statute law as under:

*Every legislature is expected to undertake what may be called the periodical spring-cleaning of the corpus of its statute law, in order that dead wood may be removed and citizens may be spared the inconvenience of taking notice of laws which have ceased to bear any relevance to current conditions. This process, which is important in itself, assumes still greater importance in modern times when statute law is growing in bulk and magnitude. The statutes that are not obsolete are formidable enough in size and number. In order that the statute book may not grow out of all proportion, it is desirable that statutes that are obsolete should be removed from the statute book.*²⁸

There are six types of repeal of obsolete laws, i.e. expired, spent, repealed in general terms, virtually repealed, superseded and obsolete.²⁹

Nineteenth Law Commission took up the project “*Identification of Obsolete Laws*”, however, much could not be done, as the term of the Law Commission ended. The 20th Law Commission thus decided to continue with the project. The 20th Law Commission decided to undertake a study “*The Legal Enactments: Simplifications and Streamlining*.” The Law Commission submitted its first interim report³⁰ on “*Obsolete Laws: Warranting Immediate Repeal*.” Centre for Civil Society (CCS) had also initiated the ‘Repeal of 100 laws’ project in 2014 with the aim to identify laws that could be repealed on account of redundancy, obsolescence, and hindrance to development, governance and freedom.³¹ CCS has asked for celebrating a *National Repeal Law Day* to discuss and institutionalize the process of repeal of laws.

Government of India had constituted a Two-Member Committee to identify the obsolete and redundant laws for repeal.³² The Committee had submitted a report in four volumes identifying 1741 Central Acts for repeal out of 2781 Central Acts existing as on 15th October, 2014. Other than this 229 State Acts were also identified for repeal. In response to a question in Parliament, the

²⁸ Para 1.2 of the Law Commission of India “96th Report on Repeal of Certain Obsolete Central Acts” (March 1984).

²⁹ *Id.* para 2.2 referring to the Principles of Statute Law revision in UK.

³⁰ Law Commission of India “Report 248 on Obsolete Laws: Warranting Immediate Repeal – An Interim Report”. Also see the Report 249, 250 and 251 – the Second, Third and Fourth Interim Reports on the Same Subject (2014), available at <https://lawcommissionofindia.nic.in/cat_obsolete_laws/>.

³¹ Repeal Law Day <<https://ccs.in/repeal-law-day>>.

³² R. Ramanujam Committee, “Report of the Two Member Committee on Repeal of Obsolete Laws” <<https://legislative.gov.in/document-category/report-of-the-two-member-committee-on-repeal-of-obsolete-laws/>>.

Law Minister submitted that “so far 1486 obsolete and redundant laws have been repealed by the Government of India since 2014 till date on the basis of Report of the Law Commission of India and a Two-Member Committee, 229 State Acts have been forwarded to the State Government concerned for repeal. In response, 75 State Acts have been repealed by the State Government concerned so far”³³.

The Repealing and Amending Act, 2023 further repeals 76 redundant and obsolete laws which has outlived its utility.³⁴ The repeal of obsolete laws shall continue not only at the Central level but also at the State level.³⁵ Less web of laws would ease the living of people and would be an important aspect for achieving the developed nation status for India.

4. DECRIMINALIZATION OF LAWS

The growth story of *Bharat* can be built up by reducing compliance burden on businesses and citizens. The mantra of ‘minimum government maximum governance’ has to be actualized.³⁶ Government of India has stated that “for enhancing compliances ease of doing business, more than 3,400 legal provisions have been decriminalized”.³⁷ The *Jan Vishwas Act*³⁸ brings forward 183 amendments across 42 Acts administered by 19 Ministries of Government of India.³⁹ The *Jan Vishwas Act* has an auto-renewal provisions of the fines and penalty amounts every three years from the date of the commencement of this Act.⁴⁰ The reform in decriminalization of laws will go a long way in promoting

³³ “Lok Sabha Unstarred Question No. 5052 to be Answered on Friday, the Apr. 1, 2022”, see <<https://sansad.in/getFile/loksabhaquestions/annex/178/AU5052.pdf?source=pqals>>.

³⁴ Ministry of Law and Justice, Dec. 18, 2023, see <<https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfd1b99b5d8f/uploads/2024/03/202403061651132880.pdf>>.

³⁵ Bibek Debroy and Aparajita Gupta, “Old is not Always Gold – A Case Study on Repealing Statutes”, available at <<https://www.niti.gov.in/sites/default/files/2023-02/SOL2.pdf>>.

³⁶ Para 2.1, Lok Sabha Report of the Joint Committee on the Jan Vishwas (Amendment of Provisions) Bill, 2022, Seventeenth Lok Sabha March 2023. A monograph titled ‘Jailed for Doing Business’ by the Observer Research Foundation presents a deep dive into the imprisonment clauses that plague India’s business compliance regulation framework. The Report found among the 69, 233 unique compliances that regulate doing business in India, 26,134 clauses have imprisonment clauses as a penalty of non-compliance. As per the said Report, an average Indian enterprise in the manufacturing sector with more than 150 employees deal with 500-900 compliances a year that cost nearly 12 to 18 lakh rupees in a single year. Almost two out of five compliances can send an entrepreneur to prison (para 3.2).

³⁷ Finance Minister in her Budget 2023-24 speech.

³⁸ Jan Vishwas (Amendment of Provisions) Act, 2023, Aug. 11, 2023.

³⁹ An Act to amend certain enactments for decriminalising and rationalising offences to further enhance trust-based governance for ease of living and doing business.

⁴⁰ *Id.*, s. 3. The fines and penalties provided under various provisions in the enactments mentioned in the Schedule shall be increased by ten per cent. of the minimum amount of fine or penalty, as the case may be, prescribed therefore, after the expiry of every three years from the date of commencement of this Act.

ease of doing business, however, this may not be as simple as it sounds.⁴¹ Implementation of these laws in true spirit will be important to achieve the benefits of the reform.

5. INTERNATIONALITY

India hosted the G-20 delegation during 9-10 September 2023. India had assumed the G-20 presidency under the theme ‘*Vasudhaiva Kutumbakam*’ – ‘one earth, one family, one future’. G-20 is a premier forum of 20 countries, including EU as a unit, which represent about 85% of the world’s GDP, over 75% of the global trade and about two-thirds of the world population.⁴² The World Leaders at this 18th G-20 Summit resolved to “steer the world out of its current challenges and build a safer, stronger, more resilient, inclusive and healthier future for our people and the planet⁴³. The G-20 Summit was a huge success for India,⁴⁴ as many world leaders including the United Nations praised the efforts taken by India to arrive at a vision for the whole world ‘for the planet, people, peace and prosperity.⁴⁵ The 10 points of action resolved by the world leaders were:

- Strong, sustainable, balanced and inclusive growth
- Accelerating progress on Sustainable Development Goals (SDGs)
- Green Development Pact for a sustainable future
- Multilateral institutions for the 21st Century
- Technological Transformation and Digital Public Infrastructure
- Fair and sustainable International Taxation System
- Gender equality and empowering all women and girls
- Financial risks mitigation
- Countering terrorism and money laundering

⁴¹ Gautam Chikermane, “The Decriminalisation Bill is a Fractional Reform, it Must be Scaled Up” (December 2022) *available at* <<https://www.orfonline.org/expert-speak/the-decriminalisation-bill>>.

⁴² *See Website of India’s G20 Presidency* <<https://www.g20.in/en/>>.

⁴³ Para 83 of the G20 New Delhi Leader’s Declaration, New Delhi – Sept. 9-10, 2023, *available at* <https://www.g20.in/content/dam/gtwenty/gtwenty_new/document/G20-New-Delhi-Leaders-Declaration.pdf>.

⁴⁴ Lakshmi Puri, “What Made India’s G20 Presidency so Successful? — A Deep Dive into the New Delhi Leaders’ Declaration”, ORF, December 2023, *available at* <<https://www.orfonline.org/expert-speak/what-made-india-s-g20-presidency-so-successful-a-deep-dive-into-the-new-delhi-leaders-declaration>>.

⁴⁵ G20 Delhi Leader’s Declaration, Preamble.

- Creating a more inclusive world.

It may be noted that progress on the above 10 points is not only important for India to become developed in 2047, but equally important for the whole world. Each of the above areas requires transformation in the applicable laws and policies at the national level and convergence at the international level. India has proposed to build synergies with outcomes of India's G-20 Presidency at the 78th United Nations General Assembly (UNGA) Meeting.⁴⁶ The theme for General Debate at 78th UNGA was "*rebuilding trust and reigniting global solidarity: Accelerating action on the 2030 Agenda and its Sustainable Development Goals towards peace, prosperity, progress and sustainability for all*".⁴⁷ India has been actively pursuing its goal to obtain permanent membership of the United Nations Security Council.⁴⁸ Advocacy and awareness for general public on international issues would be a must in coming years, as the citizens of *Viksit Bharat* have to lend support to the developing and least developed nations.

6. ELECTORAL REFORMS

India's elections are a festival of democracy. Given the size of the electorate, elections have become continuous activity in one or the other part of the country. Prior to 1967, the elections of the House of People (Lok Sabha) and State Assemblies used to be mostly held simultaneously.⁴⁹ However, things have changed over the years and conduct of elections have become a continuous process, contributing to strain on the resources of the country. Not only this, it also keeps the electorate on tenterhooks of politics continuously. The development takes a backseat in this process. The Law Commission of India in its 170th Report⁵⁰ recommended for gradual movement to simultaneous elections. A Parliamentary Standing Committee had recommended formula to hold elections in two phases.⁵¹ A High-Level Committee has been constituted

⁴⁶ MEA, "Priorities for the 78th Session of the United Nations General Assembly", Sept. 19-26, 2023, available at <<https://www.mea.gov.in/India-Priorities-UNGA.htm>>.

⁴⁷ UN General Assembly, *High-level Meetings of the 78th Session* <<https://www.un.org/en/ga/78/meetings/>>.

⁴⁸ See Response of Minister of External Affairs to the Rajya Sabha on this issue <https://www.mea.gov.in/rajya-sabha.htm?dtl/36464/QUESTION_NO3915_INDIA'S_EFFORTS_FOR_UNSC_PERMANENT_SEAT>.

⁴⁹ See Government of India, "One Nation One Election" <<https://onoe.gov.in/>>.

⁵⁰ Law Commission of India, "One Hundred Seventieth Report on Reform of the Electoral Laws", May 1999. Also see, "250th Report on Electoral Reforms", available at <https://law-commissionofindia.nic.in/cat_electoral_reforms/>.

⁵¹ See Parliament of India, Rajya Sabha, "79th Report of the Department Related Parliamentary Standing Committee on Personnel, Public Grievance, Law and Justice on Feasibility of Holding Simultaneous Elections to the House of People (Lok Sabha) and State Legislative Assemblies" (December 2015).

to examine the possibility of *Simultaneous Elections in India*.⁵² A consensual decision on this aspect has to be taken in the coming years. The turbulence of politics has to give way to this consensus, if the focus has to be on developmental politics.

Election Commission of India introduced the system of electronic voting through Electronic Voting Machines (EVMs).⁵³ Section 61-A of the Representation of the People Act, 1951 provides for the legal authority to use voting machines at elections.⁵⁴ However, time and again, the political parties and individuals have been raising questions on EVMs, whenever they lose elections. Supreme Court and various High Courts have examined these questions and challenges and have upheld the elections through EVMs. Supreme Court has cautioned in ADR case⁵⁵:

However, it is also necessary to exercise care and caution when we raise aspersions on the integrity of the electoral process. Repeated and persistent doubts and despair, even without supporting evidence, can have the contrarian impact of creating distrust. This can reduce citizen participation and confidence in elections, essential for a healthy and robust democracy. Unfounded challenges may actually reveal perceptions and predispositions, whereas this Court, as an arbiter and adjudicator of disputes and challenges, must render decisions on facts based on evidence and data.⁵⁶

Third important challenge before the electoral process has been the regulation of appointment of Chief Election Commissioner and the Election Commissioners of Election Commission of India (ECI). In absence of any Parliamentary Legislation, the Constitution Bench of the Supreme Court of India,⁵⁷ held that “a committee comprising the Prime Minister, the Leader of the Opposition and the Chief Justice of India will advise the President on ECI appointments.” However, later the Parliament enacted the CEC and Other

⁵² One Nation: One Election, “High Level Committee Report on Simultaneous Elections in India (2024)” Committee chaired by Shri Ram Nath Kovind, Former President of India, *available at* <<https://onoe.gov.in/HLC-Report-en>>.

⁵³ Election Commission of India, “Legal History of EVMs and VVPATs: A Compilation and Analysis of Case Laws” <https://www.eci.gov.in/eci-backend/public/uploads/monthly_2022_11/10386732_LegalHistoryofEVMsandVVPATs.pdf. a942a6ed2e36892f92adecb5e88f6d3d>.

⁵⁴ Constitutionality of the provision has been tested and upheld in *All India Anna Dravida Munnetra Kazhagam v. Election Commission of India*, Special Leave Petition (Civil) 2824 – 25 of 2001 (decided on April 23, 2001). See Election Commission of India, “Legal History of Evms and Vvpats: A Compilation and Analysis of Case Laws”, page 12 <<https://ceodelhi.gov.in/WriteReadData/Landmark%20Judgments/LandmarkJudgementsVolIV.pdf>>

⁵⁵ *Id.*, See *Assn. for Democratic Reforms v. Election Commission of India*, 2024 SCC OnLine SC 661 : 2024 INSC 341.

⁵⁶ *Id.*, para 67.

⁵⁷ *Anoop Baranwal v. Union of India*, (2023) 6 SCC 161 : (2023) 9 SCR 1 : 2023 INSC 190.

Election Commissioners Act, 2023 which provides for appointment of CEC and other Election Commissioners by the President on the recommendations of the Selection Committee.⁵⁸ This has again been challenged before the Supreme Court.⁵⁹

Fourth important issue is that of electoral funding. Transparency around funding of political parties has always been contentious and the Governments have been grappling to find a solution to the problem. In 2018, Government came up with the Electoral Bond Scheme which was like a promissory note, a bearer instrument, without the details of the parties to the transaction. This provided complete anonymity to the donor. This scheme was challenged before the Supreme Court by *Association of Democratic Reforms*.⁶⁰

Containing the Freebies Culture – In July 2022, Prime Minister of India raised a concern about freebies (*revdi*) culture.⁶¹ A Public Interest Litigation on the subject was filed before the Supreme Court⁶² challenging the practice of offering and distributing freebies during election campaigns. The matter is being dealt with by a three-judge bench of the Supreme Court including review of the established position in the case of *S. Subramaniam Balaji*⁶³ wherein the Court held the election promises do not qualify as corrupt practices under Section 123 of the Representation of the People Act, 1951. However, in this case, the court directed the Election Commission to frame some guidelines.⁶⁴ This is again a crucial issue to be decided.

For a developed nation, stability around the election process is a must. A questioned system by electorate is not at all desirable, whether it is Electronic Voting Machines, electoral funding, Office Bearers of the Election Commission of India or the system of voting and declaration of results. Disparaging the system just because a particular political party did not garner the desired results is harmful in the long run. All stakeholders have to arrive at bipartisan solutions in this regard.

⁵⁸ The Selection Committee will consist of the Prime Minister, a Union Cabinet Minister, and Leader of opposition/leader of the largest opposition party in Lok Sabha. See Legislative Brief on the Bill, available at <<https://prsindia.org/billtrack/prs-products/prs-legislative-brief-4256>>.

⁵⁹ See *Jaya Thakur v. Union of India*, 2024 SCC OnLine SC 406.

⁶⁰ See Supreme Court Observer, “Constitutionality of the Electoral Bond Scheme”, available at <<https://www.scoobserver.in/cases/association-for-democratic-reforms-electoral-bonds-case-background/>>.

⁶¹ Supreme Court Observer, “Freebies in Electoral Democracy and Welfare State”, available at <<https://www.scoobserver.in/cases/freebies-in-electoral-democracy-and-welfare-state/>>.

⁶² *Ashwini Kumar Upadhyay v. Union of India*, 2022 SCC OnLine SC 1098.

⁶³ *S. Subramaniam Balaji v. State of T.N.*, (2013) 9 SCC 659.

⁶⁴ Election Commission’s Model Code of Conduct states “although, the law is obvious that the promises in the election manifesto cannot be construed as ‘corrupt practice’ under s. 123 of the RP Act, the reality cannot be ruled out that distribution of freebies on any kind, undoubtedly, influences all people. It shakes the root of free and fair elections to a large degree”. See page 5 of the Compendium on Model Code of Conduct, available at <https://ceobihar.nic.in/pdf/Compendium_MCC.pdf>.

7. SECULARISM AND ISSUES AROUND RELIGION

‘Religion’ has been a very sensitive topic in India, naturally so, owing to its past, including the division of country on the grounds of religion.⁶⁵ While on one hand religious harmony is a binding factor in India, on the other there have been several riots on the ground of religion as well. The vision for *Amrit Kaal* has to be on edifice of harmony and peace among all religions. There cannot be any superiority of religion. However, there have been concerns around the issues like forced conversion, protection of personal laws, management of religious structures by the Government,⁶⁶ minority appeasement, citizenship laws.⁶⁷ etc. A longstanding dispute over the birthplace of Lord Ram (*Ayodhya Dispute*)⁶⁸ was given a quietus by the Supreme Court in 2019 and the temple of *Lord Ram* is going to be inaugurated in Ayodhya on January 22, 2024. However, the question is whether this put the issue of conflicts on the ground of religion to rest? Likely not, the cases are going on for *Kashi Vishwanath-Gyanwapi*⁶⁹ and *Krishna Janmabhoomi-Shahi Idgah*.⁷⁰ These cases would be required to be settled by the society through better means. Mediation may have failed in the case of *Ayodhya Dispute*, but there is no harm in trying again in other matters. These disputes are sensitive disputes and unless resolved amicably, it may put a spanner in the wheels of ambition of ‘*Viksit Bharat*’ by 2047. The religious and political leaders have to rise from their positions and find a common ground for bringing win-win solutions. Results through litigation will always have a party not happy with the outcome.

Anti-conversion laws – Thirteen states in India have legislation criminalizing forced/deceitful religious conversions.⁷¹ However, these laws have been

⁶⁵ Independence Act, 1947.

⁶⁶ For example, Tamil Nadu Hindu Religious and Charitable Endowments (TNHR&CE) Act.

⁶⁷ Implementation of the Citizenship Amendment Act, 2019 and its rules.

⁶⁸ *M. Siddiq v. Mahant Suresh Das*, (2020) 1 SCC 1 : 2019 SCC OnLine SC 1440.

⁶⁹ The case is at trial stage before Varanasi Court. The challenge to the survey of the premises have been turned down by the Allahabad High Court stating that the term “religious character” could only be decided after inquiry. Reference — the Places of Worship (Special Provisions) Act, 1991, which invalidates legal proceedings that may lead to altering the status of any place of worship as it stood on Aug. 15, 1947. The matter was also brought up before the Supreme Court in *Anjuman Intezamia Masjid v. Rakhi Singh*, 2023 SCC OnLine All 208 and is pending with an order of Status Quo. See Supreme Court Observer, “Gyanwapi Mosque Dispute”, available at <<https://www.scobserver.in/cases/gyanwapi-mosque-dispute/>>.

⁷⁰ “Shri Krishna Janmabhoomi Case: Allahabad High Court Approves Survey of Shahi Idgah Complex in Mathura” India TV, Dec. 14, 2023 <<https://www.indiatvnews.com/uttar-pradesh/krishna-janmabhoomi-case-update-allahabad-high-court-approves-survey-of-shahi-idgah-complex-in-mathura-latest-news-2023-12-14-907282>>.

⁷¹ For example, Uttarakhand Freedom of Religion Act, 2018, Preamble reasons “to provide freedom of religion by prohibition of conversion from one religion to another by misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means or by marriage and for the matters incidental thereto.”

criticized by USA as being violative of Human Rights.⁷² While India has given a suitable response in these matters,⁷³ in the long run, addressing international perception on these issues would be crucial. Article 44 of the Constitution of India provides for Uniform Civil Code (UCC).⁷⁴ Uttarakhand became the first state to take serious steps towards implementation of UCC as provided in Constitution of India.⁷⁵ Will other states also take steps towards this? Law Commission is already examining the issue.⁷⁶

8. DIGITALIZATION AND ITS REGULATION

The emergence of technologies like artificial intelligence, autonomous systems, and cybersecurity has introduced complex ethical and security considerations that demand international cooperation. World is more than a global village now. It has in true sense become one virtual world – one earth. There are no borders when it comes to internet, except the fictional firewalls and perceived boundaries of operation through IP Addresses. The dynamics between governing law and technology in the realm of international relations are poised to shape the future of global interactions. As the rapid evolution of technology outpaces the development of legal frameworks, a critical examination of this relationship becomes imperative. The intricate interplay between technological innovations, cross-border data flows, cybersecurity, and human rights necessitates a proactive approach to establish coherent and adaptable regulations. Striking a balance between fostering innovation and safeguarding individual rights poses a complex challenge, requiring international cooperation to address the transnational nature of these issues. As nations navigate this uncharted terrain, collaborative efforts in redefining norms and standards can pave the way for a harmonized global governance structure that ensures the responsible and equitable use of disruptive technologies.

The European Union's AI law represents a landmark initiative in the regulation of artificial intelligence technologies. Envisioned as a comprehensive framework, this law seeks to address the challenges and opportunities presented by AI's rapid advancement. The law emphasizes a risk-based approach, categorizing AI applications into four levels of risk: unacceptable risk, high

⁷² Luke Wilson, "Issue Update: India's State-Level Anti-Conversion Laws", United States Commission on International Religious Freedom (March 2023), available at <<https://www.uscirf.gov/sites/default/files/2023%20India%20Apostasy%20Issue%20Update.pdf>>.

⁷³ Through diplomatic responses and the decisions of the Supreme Court of India has ruled that "religious conversions are a matter of choice, provided it is not done in the pretext of hiding an illegality". See *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635: AIR 1995 SC 1531. A case on Constitutionality of Anti-conversion Laws is pending before Supreme Court. *Citizens for Justice and Peace v. State of U.P.*, WP (CrI) 428/2020.

⁷⁴ The State shall endeavour to secure for the citizens a uniform Civil Code throughout the territory of India.

⁷⁵ The UCC in Goa follows the Portuguese Civil Code of 1867.

⁷⁶ 22nd Law Commission of India.

risk, limited risk, and minimal risk. High-risk AI systems, such as those used in critical infrastructure, healthcare, and law enforcement, will be subject to stringent regulations, including mandatory conformity assessments. The law underscores the significance of human oversight, mandating that critical decisions remain under human control. It also underscores the need for transparency, requiring AI systems to provide clear and understandable explanations for their actions. The law promotes the sharing of AI-related datasets, aiming to foster innovation while respecting privacy and intellectual property rights. Additionally, the law promotes a cooperative approach among member states, fostering harmonization in AI regulations across the EU.

The adoption of a historic agreement by all Member States of the United Nations Educational, Scientific and Cultural Organization (UNESCO) marks a significant milestone in the realm of artificial intelligence (AI). This agreement reflects the shared recognition of the importance of establishing common values and principles to guide the responsible and ethical development of AI technologies. By coming together to define these standards, nations are acknowledging the potential of AI to shape societies and economies while emphasizing the need to ensure its development aligns with human rights, cultural diversity, and sustainable development goals.

Technological advancements have prompted the need for the evolution of treaty frameworks to address emerging challenges and opportunities. One notable impact is the incorporation of provisions related to cybercrime, data protection, and intellectual property rights into treaties. The proliferation of digital transactions and cross-border data flows has prompted the development of treaties aimed at harmonizing regulations to facilitate international trade and e-commerce. The international regulation of digital markets has emerged as a pressing issue due to the global nature of digital technologies and their impact on economies, societies, and competition. The borderless nature of the internet and digital services has highlighted the need for coordinated efforts among nations to address challenges such as market dominance, data privacy, cybersecurity, and fair competition. While international regulation in this domain remains a complex endeavor, nations are developing their domestic legislations to handle legal issues emerging out of these technological developments. India has passed the Digital Personal Data Protection Act, 2023. The Standing Committee on Finance submitted its report⁷⁷ on 'Anti-Competitive Practices by Big Tech Companies', on December 22, 2022 making observations on regulating digital markets, digital gatekeepers, digital competition etc. There is already a Regulation under the IT Act which regulates the

⁷⁷ Report of the Parliamentary Standing Committee on Finance (53rd Report) dated Dec. 22, 2022 (Chair: Mr Jayant Sinha), available at <https://loksabhadocs.nic.in/lssccommittee/Finance/17_Finance_53.pdf>.

social media intermediaries.⁷⁸ TRAI has submitted its report⁷⁹ on ‘Leveraging Artificial Intelligence and Big Data in Telecommunication Sector’, which has recommended for a AI regulator and multistakeholder body to bring in ethical AI principles. *Amrit Kaal* will witness a number of reforms in the area of law and technology, including the proposed *Digital India Act*.⁸⁰

9. ACCESS TO JUSTICE – REACHING TO THE DOORS OF THE POOR

Pendency of cases in courts in India has been one of the greatest challenges. The dashboard of National Judicial Data Grid is a stark reminder of about 4.5 crore pending cases (this includes cases pending for 20-30 years as well).⁸¹ While several efforts are being taken to ameliorate this situation, both by the government and the judiciary, there is a need to popularize the win-win solutions through mediation. The resolution through mediation has now been accorded legal recognition.⁸² Full fledged operation of the mediation law would be instrumental in tackling some amount of pendency of cases. Further focus on increasing opportunities for institutional arbitration and creasing the issues of delay and costs involved in arbitration proceedings would be helpful. In a major chunk of litigation in courts in India, Government is a party. Having a policy to resolve these disputes expeditiously through alternative modes of dispute resolution would be important.⁸³ Technology would play an important role in reaching out to the poor seeking justice.

10. COOPERATIVE AND COMPETITIVE FEDERALISM

India will emerge as a developed nation when all the States and Union territories of the country are on same page and think in one direction to take the country ahead. The cooperation between the Central Government and State Government has to increase and rise above and beyond politics. The conflicts

⁷⁸ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

⁷⁹ Telecom Regulatory Authority of India, “Recommendations on Leveraging Artificial Intelligence and Big Data in Telecommunication Sector” (July 20, 2023) <https://traigov.in/sites/default/files/Recommendation_20072023.pdf>.

⁸⁰ See Ministry of Electronics and Information Technology, Proposed Digital India Act, 2023 (will bring changes to the Information Technology Act) <https://www.meity.gov.in/writer-addata/files/DIA_Presentation%2009.03.2023%20Final.pdf>.

⁸¹ See National Judicial Data Grid <<https://njdg.ecourts.gov.in/njdgnew/index.php>>.

⁸² India has also enacted the Mediation Act, 2023 which provides a legal framework for recognition of mediated settlements, which has been a grey area so far.

⁸³ See Office Memorandum, “Settlement of Disputes Other than Taxation Between Government Ministries/Departments Inter Se and Between Government Ministries/Departments and Other Ministries/Departments/Organisation(s) – Administrative Mechanism for Resolution of Disputes (AMRD)”, available at <<https://legalaffairs.gov.in/sites/default/files/administrative-mechanism-for-resolution-of-disputes.pdf>>.

between the Governor and the State Governments⁸⁴ have to be amicably resolved in the spirit of cooperative federalism. However, at the same time, the States have to also compete amongst themselves to provide for better facilities for investors and ease of living for its citizens. For example, the initiatives like giving a push to cooperatives movement, Lifestyle for Environment “LiFE”, Ease of Doing Business, promoting circular economy, protection of environment, consumer protection and many more issues would require wholehearted support of everyone.

THIS PRELUDE brings forward several issues surrounding law and policy, however, it may not have covered everything. The new ‘*Sansad Bhawan*’ has to carry forward the rich legacy of the ‘*Samvidhan Sadan*’, and it has to work at a greater pace to come up with transformative laws for country.⁸⁵ At the inaugural session of new ‘*Sansad Bhawan*’ the first legislation which got through was the *Nari Shakti Vandan Adhiniyam*,⁸⁶ which sought to provide for one-third reservation to women in Lok Sabha and State/Union Territory Legislatures to enable greater participation of women as public representatives in policy making at the National and State levels. Again, to reiterate, having clarity and stability around various legal issues through legislature and the judiciary would be crucial for India to progress on the path towards ‘*Viksit Bharat @100*’. It would be a bounden duty of scholars to not only critically examine and evaluate the new and old legislations and its impact – social, economic and political on the country’s development, but to also offer solutions to the issues and concerns.

⁸⁴ The State Governments which are ruled by political party other than the Union of India has seen conflicts with the Governor to the extent of matters reaching the High Courts and Supreme Court of India. Example, West Bengal, Kerala, and Delhi. The issues range from giving assent to Bills passed by State Legislature, powers as Chancellor of universities to control over civil servants.

⁸⁵ A Special Session of Parliament was convened which commenced on Sept. 18, 2023 in the Old Parliament Building wherein discussion on “Parliamentary Journey of 75 Years Starting from Samvidhan Sabha – Achievements, Experiences, Memories and Learnings” was held in both the Houses.

⁸⁶ Constitution (One Hundred and Sixth Amendment) Act, 2023.

