

## INDIA

### LEGISLATIVE DEVELOPMENTS

#### *Consumer Protection Act, 2019*

1. A new Consumer Protection statute was passed to replace the existing law which had governed the field for three decades. The new Act introduces a range of measures to safeguard customers and enforce consumer rights, including establishment of the Central Consumer Protection Authority. High penalties for misleading advertisements have been introduced. The new law covers aspects of e-commerce as well.

#### *Motor Vehicles Amendment Act, 2019*

2. The amendment to the Motor Vehicles Act seeks to bring discipline to roads and to address rampant violations of traffic rule. The Amendment Act introduces higher penalties for driving errors, including imprisonment of up to one month for racing and speeding, and up to six months for offences relating to accidents, amongst others.

#### *Unlawful Activities (Prevention) Amendment Act, 2019*

3. The Unlawful Activities (Prevention) Amendment Act, 2019 was passed by the Parliament to amend the Act of 1967. Under the amendment, the Home Ministry can declare individuals 'terrorists' if they commit or participate in acts of terrorism, prepare or promote terror. The amendment also seeks to expedite cases under the Act, with due protection to human rights. Amongst concerns over the extensive reach of the Act and possible misuse, the Act has been challenged before the Hon'ble Supreme Court of India. In a recent order, the Court agreed to hear the matter. The Court's final decision on the issue is awaited.

#### *Reservation for economically weaker sections*

4. The Constitution (One Hundred and Third) Amendment Act, 2019 introduced a 10% reservation in jobs and educational institutes to economically weaker sections of the country. The amendment changes the existing caste-based reservation policy, aiming to address the challenge of poverty, and uplift 200 million people below the poverty line.

#### *Companies (Amendment) Act, 2019*

5. The amendment to the Companies Act 2013 aims to increase accountability and enforcement to strengthen corporate governance norms and compliance in the corporate sector. Importantly, the amendment introduces stronger regulation for shell companies, and seeks to make Corporate Social Responsibility norms more effective.

#### *Arbitration Amendment Act, 2019*

6. The amendment to the Arbitration Act of 1996 seeks to make progress towards

making India an arbitration hub. The amendment constitutes the Arbitration Council of India to promote settlement of disputes through arbitration and other alternate dispute resolution mechanisms. Importantly, the amendment introduces a timeline for completing proceedings and mandates that an award be passed within one year of completion of pleadings in international commercial arbitrations.

#### *Article 370 of the Constitution of India abrogated*

7. The special constitutional status of the State of Jammu and Kashmir was abrogated. The erstwhile State was bifurcated into two Union Territories of Jammu and Kashmir, and Ladakh.
8. The validity of this legislative action has been challenged before the Hon'ble Supreme Court of India and by a recent order the Court has agreed to hear petitions challenging the abrogation. The Court's decision on the issue is awaited.

#### *Banning of Unregulated Deposit Schemes Act, 2019*

9. Banning of Unregulated Deposit Schemes Act, 2019 provides for a comprehensive mechanism to protect the interest of depositors and to prevent unregulated entities from collecting deposits and imposing strict penalties.

#### *Right to Information (Amendment) Act, 2019*

10. The Right to Information (Amendment) Act, 2019 extended the powers of the government to regulate the salary and terms of service of officers under the Act, including the Chief Information Commissioner, Information Commissioner and State Chief Information Commissioner.

#### *The Code of Wages Act, 2019*

11. The Code of Wages Act, 2019 introduces mandatory wages across the country for 50 crore workers. The Act consolidates four older labour laws including the Minimum Wages Act and Payment of Wages Act. Wages would now be fixed by a tripartite committee comprising representatives of trade unions, employers and the state government. Importantly, recognising the gender gap, the Act expressly prohibits gender-based discrimination in payment of wages.

#### *Protection of Human Rights (Amendment) Act, 2019*

12. The amendment to the Human Rights Act permits not just a retired Chief Justice but also a judge of the Supreme Court of India to be a chairperson of the National Human Rights Commission. The Amendment Act also reduces the tenure of chairpersons of national and state human rights bodies to three years from five years.

## **SUPREME COURT JUDGEMENTS**

#### *Environmental rule of law*

13. The Supreme Court outlined the importance of environment rule of law in environmental decisions. Citing the UN Principles on environment conservation and

the latest report on the Environment Rule of Law, the Court outlined the necessity of the principle for achieving the goal of sustainable development.

#### *Witness Protection Scheme*

14. A two-judge bench of the Supreme Court approved India's first Witness Protection Scheme proposed by the Government of India. In addition, the Court issued directions to all States to provide vulnerable witness deposition complexes in all lower courts.

#### *Reservations in job promotion not necessary*

15. A five-judge bench of the Supreme Court turned down an appeal to reconsider its earlier order for reservations for Scheduled Castes (SCs) or Scheduled Tribes (STs) in job promotions. It was held that it is not mandatory for the government to give reservations in promotions in public sector jobs.

#### *Aadhaar Case*

16. A Constitution Bench of five judges reduced the scope of the Aadhaar card, the new national identification card. Installing important safeguards against surveillance and data harvesting amongst other challenges, the Court barred private entities from using the Aadhaar Card. While the card remains essential for accessing welfare government benefits, these benefits cannot be denied to children without an Aadhar Card.
17. Following this judgment, the Aadhaar Amendment was passed. The amendment has been challenged for failing to comply with the judgment, raising privacy and other human rights concerns.

### **ISSUES AFFECTING THE LEGAL SECTOR IN INDIA**

#### *Shortage of judicial officers, backlog and delays*

18. The Economic Survey of 2019 found that over 35 million cases are pending in various courts across the country. The survey recommended increasing the number of judges at district and subordinate courts and increasing the number of working days for the Supreme Court and High Courts. The survey suggests appointing 8,152 judges in district and subordinate courts, 361 in High Courts and eight in the Supreme Court, to achieve the targets.

#### *Gender and caste imbalance in Indian judiciary*

19. The lack of diversity in the Indian judiciary has been a persistent concern. Apart from the gender bias in judicial appointment, the representation of various caste groups was found to be a fraction of their total population: Other Backward Classes (OBCs) was 12% of their population, 14% for Dalits and 12% for tribals.

## **BAI ACTIVITIES AND ENGAGEMENTS (2018-2019)**

### *Lawyers of India Day*

20. The Bar Association of India celebrated “Lawyers of India Day” on 3 December 2018 by felicitating and honouring eminent members of the Bar and legal Academia for their contribution in upholding the Rule of Law. Hon’ble Mr. Justice Madan B. Lokur, Judge Supreme Court of India was the Chief Guest on the occasion which was also graced by Hon’ble Mr. Justice Rajendra Menon, Chief Justice of Delhi High Court.

### *Meeting with Shanghai Delegation*

21. A three member delegation led by the President of Shanghai Bar Association visited the Bar Association of India on 21 January 2019 and interacted with its members. On that occasion, measures to further strengthen collaboration between the two Associations were discussed.

### *Meeting with JFBA Delegation and Visit to NHRC & District Courts of Delhi*

22. A thirteen Member delegation from the Japan Federation of Bar Associations (JFBA) visited the Bar Association of India on 8 February 2019. The delegation visited the National Human Rights Commission (NHRC) and interacted with the Hon’ble Chairperson and Members of NHRC. The delegation also visited District Courts to understand court procedure in India.

### *1st LAWASIA Human Rights Conference*

23. The Bar Association of India organised the 1<sup>st</sup> LAWASIA Human Rights Conference on 9–10 February 2019 in New Delhi. The conference was spread across nine plenary sessions over two days, which covered the following topics: Gender, Sexuality and Human Rights, New Technologies, Privacy and Mass Surveillance: Will Human Rights Survive?, Human Rights Lawyers: Independence and Threats, Aggressive Policing and Human Rights, Freedom of the Press in the Digital Age and Climate Change, Water conflicts and Human Rights.

24. The conference was attended by more than 300 participants from jurisdictions across the Asia Pacific, and beyond. His excellency Shri Venkaiah Naidu, the Vice-President of India, was the chief guest at the closing session and Mr. K.K. Venugopal, Attorney General for India was the chief guest at the Inaugural Session. The conference also had the benefit of several Supreme Court justices being part of the panels, including Justice A.K. Sikri, Justice Deepak Gupta and Justice D.Y. Chandrachud.

25. A focus session on Sri Lanka was also organised in view of the recent constitutional crisis in Sri Lanka. Eminent jurist Mr. Fali Nariman, Emeritus President, Bar Association of India and Mr Upul Jayasuriya, spoke on the occasion. This session highlighted the support extended by Bar Association of India to Sri Lanka during

their time of crisis, including a legal opinion written by Mr. Nariman, and an observation mission undertaken by Mr. Prashant Kumar, President-Elect, BAI during the arguments in Sri Lanka's Constitutional Court.

*BAI Penn State Law Scholarship Award Function – 2019*

26. The Bar Association of India institutionalised and conferred the first BAI – Penn State Law Scholarship for the academic year 2019-2020 in the presence of BAI functionaries and Prof. Stephen G. Barnes, Assistant Dean, Graduate and International Programs, Penn State Law (The Pennsylvania State University).

*BAI participates in the VI Moscow Legal Forum organised by ALRF*

27. The Bar Association of India led by its President-Elect Mr. Prashant Kumar participated in the VI Moscow Legal Forum which was organised by the Association of Lawyers of Russia (ALRF) jointly with the Kutafin Moscow State Law University (MSAL) on 4 April, 2019 in Russia. The theme for the forum was "Arbitration in BRICS countries and emerging economies".

*BAI signs Memorandum of Understanding in the Sphere of Arbitration in Moscow*

28. Mr. Prashant Kumar, President – Elect signed a Memorandum of Understanding on behalf of Bar Association of India and on behalf of International Dispute and Resolution Centre for BRICS and Emerging Economies, New Delhi in Moscow on 4th April, 2019. The Memorandum was also signed by Association of Lawyers of Russia (ALRF) and Kutafin Moscow State Law University (MSAL).

*Meeting with Russian Prime Minister and BRICS Legal Forum Developments*

29. Mr. Prashant Kumar, President-Elect, Bar Association of India had a meeting with the Prime Minister of Russia Dmitri Medvedev on the sides of St. Petersburg Legal Forum held on 14–18 May, 2019. The Hon'ble Prime Minister assured full cooperation of the Russian Federation for setting up BRICS and Emerging Economies Network of International Commercial Dispute Resolution Institutions and has termed it a necessary and important endeavour.

*Meeting with Secretary UNCITRAL*

30. Mr. Prashant Kumar, President-Elect, Bar Association of India had a meeting with Ms Anna Joubin-Bret, Secretary UNCITRAL on the sides of St. Petersburg Legal Forum held on 14–18 May 2019. She assured all help and support of UNCITRAL to Bar Association of India in establishing the BRICS and Emerging Economies Network of International Commercial Dispute Resolution Institutions and in organising joint events with BAI in India.

*Seminar on Consumer Protection Act, 1986 & Real Estate (Regulation and Development) Act, 2016*

31. The Bar Association of India, in collaboration with the Consumer Court Advocates Association, organised a Seminar on Consumer Protection Act, 1986 & Real Estate (Regulation and Development) Act, 2016 on 29 June 2019 in Mumbai.

*Visit of China Law Society Delegation*

32. A six member delegation led by Mr. Zhang Mingqi, Vice President & Secretary General of China Law Society visited the Bar Association of India on 18 July 2019. The Bar Association of India organised a visit of the Chinese Delegation to the Supreme Court of India and the High Court of Delhi.

*Indo-China Legal Dialogue*

33. The Bar Association of India organized "Indo-China Legal Dialogue" on 19 July 2019 in New Delhi. On the said occasion the representative and office bearers of both the Association deliberated upon strengthening the ties between India and China.

*30th POLA Conference*

34. A delegation led by Mr. Prashant Kumar, President-Elect, BAI participated in the 30<sup>th</sup> POLA Conference – 2019 held from 31 July–1 August 2019 in China.

*Singapore Convention Signing Ceremony and Conference*

35. Mr. Prashant Kumar, President-Elect, BAI and Mr. Amarjit Singh Chandhiok, Vice President, BAI participated in the Singapore Convention Signing Ceremony and Conference on behalf of The Bar Association of India held from 6–7 August 2019 in Singapore.

*Nomination of Ms. Pinky Anand at the Shanghai Cooperation Organization*

36. Ms. Pinky Anand, Additional Solicitor General of India & Vice President, Bar Association of India has been nominated to represent India at the seventeenth meeting of prosecutors general of the member states of the Shanghai Cooperation Organization (SCO) on 1 October 2019 in Bishkek, Kyrgyz Republic.

*6th BRICS Legal Forum and structuring of BRICS Disputes Resolution Platform*

37. A high power delegation from BAI including Mr. Prashant Kumar, President-Elect, BAI, Mr. Amarjit Singh Chandhiok, Vice President, BAI, Mr. S.S. Naganand, Vice President, BAI and Mr. Uday Prakash Warunjikar, Vice President BAI are participating in the 6th BRICS Legal Forum to be held from 14–16 October 2019 in Rio de Janeiro, Brazil

## **Important Resolutions passed by the Bar Association of India**

38. The following important resolutions were passed by the Bar Association of India.

- i. The Bar Association of India in its emergent meeting held on 24 April 2019 passed a resolution with regard to allegation of sexual harassment against the Chief Justice of India and urged the Full Court of the Supreme Court of India to lay down norms, guidelines and procedures for inquiry into complaints of sexual harassment against the Judges including the Chief Justice of India and observed that these norms inter alia should take into account principle of natural justice, principle of confidentiality etc.
- ii. The Bar Association of India in its emergent meeting held on 24 April 2019 passed a resolution strongly condemning the dastardly terrorist attack in Sri Lanka over the Easter weekend and observed two minutes silence in memory of victims of the attack. The Bar Association of India expressed its deep concern on such terrorist attack and is of the firm view that such attacks are against the basic values of humanity and needs to be condemned in the strongest of words. The Association conveyed deepest condolences to the people of Sri Lanka.

**Bar Association of India**  
**November 2019**