

# The Annual Survey of State Laws in India

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**The National Academy of Legal Studies and Research (NALSAR)**

Justice City, Shamirpet,  
Hyderabad, Telangana 500101

2022

**Mode of Citation:** ASSSL (2020)

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# KARNATAKA

Neela Badami<sup>1</sup>

## Introduction

The year 2020 was a busy year in Karnataka, pandemic notwithstanding. Almost 60 pieces of legislation, 25 ordinances, 24 rules, 87 COVID-19 related orders, 257 COVID-19 related circulars, and 40 miscellaneous orders and notifications were produced. The legislations were mostly made under the state list, with a handful under the concurrent list. It has been observed that some entries under each list are more heavily used than others. Twenty one entries of the available 66 from the state list were used. Eight out of 47 of the concurrent list entries were used. Local government, land, and the state public services seem to have been a key preoccupation of the lawmaker under the state list, and education, under the concurrent list. Article 205 of the Indian Constitution was also used a few times.

Of the 25 ordinances promulgated, almost all were converted into legislations with little, if any, changes and are covered in the 60 legislations mentioned above. The only exception is the Industrial Disputes and Certain Other Laws (Karnataka Amendment) Ordinance, 2020 (ID Ordinance) which was enacted to amend the Industrial Disputes Act, 1947, the Factories Act, 1948 and the Contract Labour (Regulation and Abolition) Act, 1970, to provide measures to boost ease of doing business in Karnataka. The ID Ordinance became a centre of controversy as it negatively affected workers and was defeated by a united opposition in the Council when the bill was tabled.

This review has been organised under the themes of local governance, land, health and environment (including state's response to the pandemic), and labour and industrial laws.

## Quantitative Analysis

Set out below, are a few graphs depicting, *inter alia*, the manner in which legislations were passed and under what entries of the state/concurrent list these were passed.

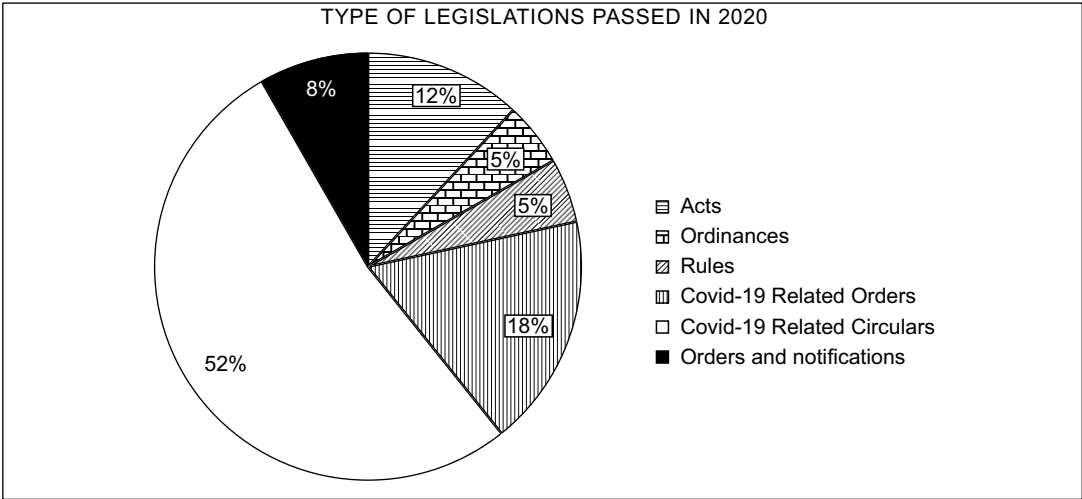
## Types of Legislations Passed in 2020

The pie-chart below represents the various types of legislations passed by the government of Karnataka in 2020. Orders and circulars arising out of the need to combat COVID-19 have been highlighted separately.

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1. Partner, Samvad Partners, Bengaluru.

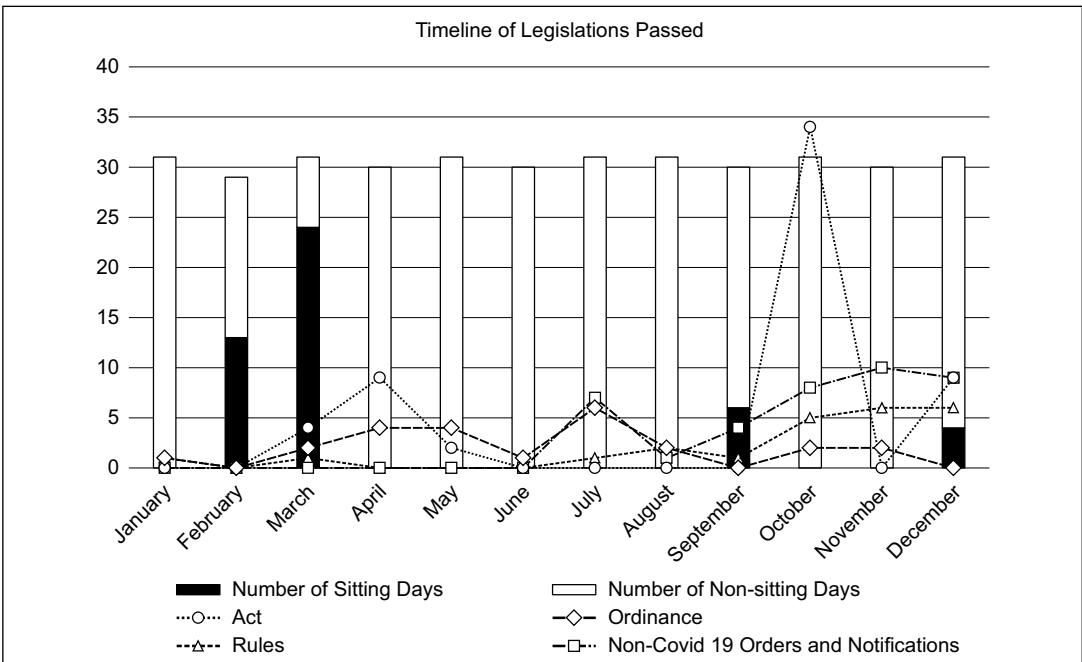
The author thanks Rhea Singh, Samanth Dushyanth and Mahimna Kandpal for their research assistance.



Note: The 12 percent slice showing Acts also includes ordinances that were converted into Acts.

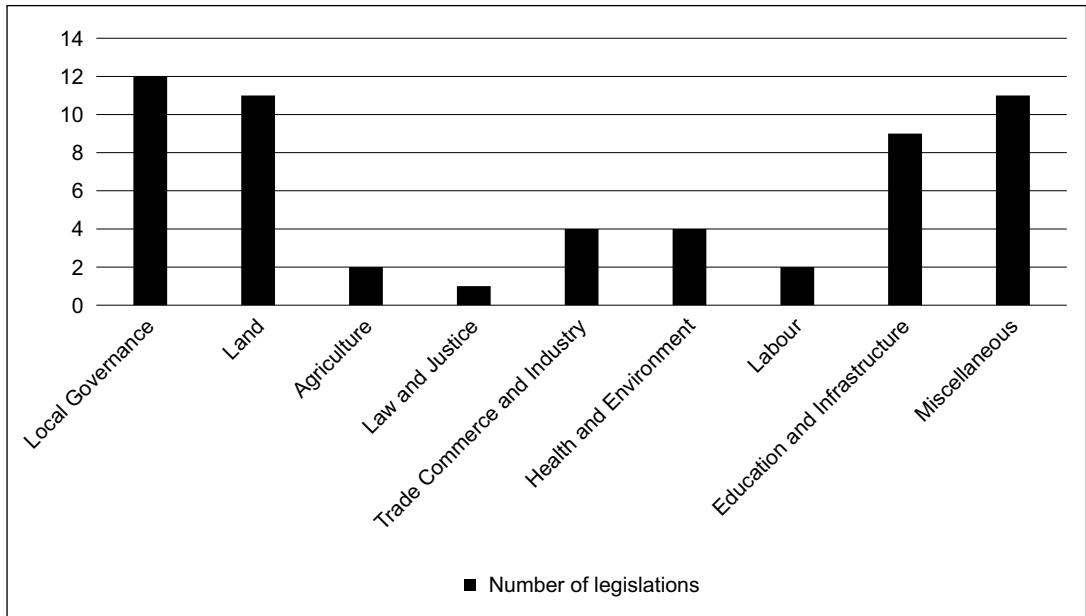
### Timeline of Legislations Passed

The bar graph below represents the number of days the legislative assembly of Karnataka held a parliamentary session in 2020 contrasted against the number of various types of legislations passed by the sitting parliament. Evidently, the number of sitting days is small and yet 60 legislations were passed. The numbers indicate more mechanical functioning than deliberative law making. It is important to note that the conversion of most of the ordinances into legislation has been done without much change to the text of the underlying ordinance.



## Legislation by Subjects

The bar graph below represents the various sectors in which the government of Karnataka passed legislations to amend existing laws or brought into effect new laws. Local governance, land, and education have been the key themes, followed closely by commerce and health. Agriculture, labour, law and justice are not far behind.



## Qualitative Analysis

### Local Governance

#### *BBMP Act, 2020*

Of the 12 legislations made under this theme, the BBMP Act, 2020, made under entry 5 of list II<sup>2</sup> has been one of the more controversial ones. The Bruhat Bengaluru Mahanagara Palike was established and governed under the Karnataka Municipal Corporations Act, 1976. The statement of objects and reasons (Objects) of the BBMP Act finds the principal Act to be inadequate in administrative and structural matters to govern Bengaluru (a major economic centre, large and growing population, with 714 sq. km under the BBMP limits). The principal Act is also a common legislation catering to nine smaller corporations in Karnataka. The Objects seek an independent legislation for the BBMP's working, for the stated purposes of "improving decentralization, integration of public participation at various levels of municipal governance and ensuring efficient decision making by the municipal authorities."

2. "Local Government, that is to say, the constitution and powers of municipal corporations, improvement trusts, districts boards, mining settlement authorities, and other local authorities for the purpose of local self government or village administration." This entry was used around 10 times in the year.

The BBMP Act, 2020 establishes a four-tier system of local governance:

- a) The BBMP Corporation: The apex municipal authority responsible for functions including preparation and implementation of schemes for social justice and urban development in the city.
- b) The Zonal Committees: The state, in consultation with the BBMP Corporation, will divide the municipal area into zones (maximum of 15), which will be administered through zonal committees. Functions of the zonal committees will include: (i) supervision and implementation of projects and schemes, and (ii) approving fresh infrastructure projects.
- c) The Ward Committees: Each area would be divided into 225 wards with each ward being responsible for preparing specific ward related developmental schemes and also implementing schemes proposed by the BBMP Corporation.
- d) The Area Sabha: Each of the wards would further be divided into area sabhas, whose representative would be appointed by the zonal committee.

A few key provisions of the BBMP Act have been challenged by citizen groups and activists by way of a PIL filed in the Karnataka high court.<sup>3</sup> Some background is useful here. Part IX-A (*Municipalities*) of the Constitution of India was inserted by the 74<sup>th</sup> Amendment Act, 1992. The main objective of this amendment sprung from a recognition that “[i]n many states, local bodies have become weak for a variety of reasons [...] Urban Local Bodies are not able to perform effectively as vibrant democratic units of self – government.” The new constitutional chapter on municipalities focuses on the need to put ULBs on “a firmer footing [in their] relationship with the State Government.”

The PIL argues that the BBMP Act while proclaiming to improve decentralisation, actually continues to hoard power in the state government in a variety of ways, including in the constitution of zonal and constituency consultative committees which are vested with control over ward committees (whereas article 243-S envisages independent control to the latter). The head of the zonal committee is to be a zonal commissioner who is drawn from the bureaucracy and not from elected representatives of the people. The PIL argues that vesting additional committees that the Constitution doesn’t envisage, with powers of control over ward committees violates article 243-S of the Constitution.<sup>4</sup>

This legislation and the reactions it provoked is interesting for the purposes of this study, since it is an example of the state using its law-making power to ostensibly decentralise power from the state to the city, but the legislative design shows the proverbial gap between intention and execution.<sup>5</sup>

It must be noted, however, that the Act does make efforts to include the voices of people through public participation. Apart from the categories of persons enumerated in the Constitution who can be nominated to municipalities,<sup>6</sup> the Act also adds social workers to the list but they cannot vote, as mandated by the Constitution. The PIL challenges the addition and, asks how the list could go beyond the bounds of the Constitution. The government in response has contended that the list was not exhaustive and the category added could be included as it was *ejusdem generis* with the categories provided in the list. The final fate of the provision would depend on the decision of the high court.

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3. *CN Deepak and Others v. State of Karnataka and Others*, WP No 6126/2021.

4. The State has filed its objections and the matter is listed for final arguments on March 8, 2022.

5. See also Ramnath Jha, “The BBMP Act, 2020: A Critical Appreciation”, *Observer Research Foundation*, Jan. 30, 2021, available at: <https://www.orfonline.org/expert-speak/the-bruhat-bengaluru-mahanagara-palike-act-2020-a-critical-appreciation/> (last visited on March 24, 2022).

6. See, the Constitution of India, art. 243-R.

The Act read with the Karnataka Municipalities (Amendment) Act, 2020 that amends the Karnataka Municipalities Act, 1964 to form neighbourhood groups, area *sabhas* and ward committees among others thereby constructs/redesigns an institutional structure to enable participation of the people of the ward in local self-government.

### ***The Karnataka Gram Swaraj and Panchayat Raj (Amendment) Act, 2020***

It was not just Bengaluru that was focussed upon by the legislature to advance local self-government. Rural local bodies also received their fair share of amendatory attention. The Karnataka Gram Swaraj and Panchayat Raj (Amendment) Act, 2020 amended the Karnataka Grama Swaraj and Panchayat Raj Act, 1993 to provide for major changes in the functioning of rural local bodies. The terms of office of the president and the vice-president of the gram panchayat, taluk panchayat and zilla panchayat were halved; and reduced from five years to 30 months. Correspondingly, the standstill period in which motions of no-confidence could not be moved (which was earlier 30 months from the date of election) has now been reduced to 15 months. Certain election reforms were also introduced. Liquor shops are required to remain closed during the 48-hour period before close of polling. It is somewhat ironic that what is sauce for the goose isn't sauce for the gander when it comes to liquor. While the ban seems well intentioned, the reality on the ground indicates that liquor sales spike when panchayat elections are announced, with another government department, that of excise, raking in the moolah.<sup>7</sup>

### **Heritage Protection**

Two legislations which are of interest simply because of the subject matter and the entries under which they were made, are the Lakkundi Heritage Area Development Authority Act, 2020 (entry 5<sup>8</sup> and 32<sup>9</sup> of list II) and the Sarvajna Kshetra Development Authority Act, 2020 (entries 5 and 32 of list II and entries 20<sup>10</sup> and 40<sup>11</sup> of list III). These legislations merit closer attention to understand which historic sites get state protection and which don't, especially when it is commonplace to see heritage buildings being razed to the ground in the interests of 'development'.

Lakkundi, a village in Gadag district, was an erstwhile royal Chalukya capital and is, therefore, full of picturesque ruins,<sup>12</sup> "no less than Hampi."<sup>13</sup> It is also the birthplace of Kannada literature patron and Jainism promoter, Attimabbe.<sup>14</sup> The Sarvajna Kshetra on the other hand includes the birthplace

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7. See for example, V Shiva Shankar, "Karnataka: Gram Panchayat elections trigger spike in liquor sales", *Times of India*, Dec. 22, 2020, available at: <https://timesofindia.indiatimes.com/city/bengaluru/karnataka-gram-panchayat-elections-trigger-spike-in-liquor-sales/articleshow/79850295.cms> (last visited on March 24, 2022).

8. *Supra* note 2.

9. "Incorporation, regulation and winding up of corporations, other than those specified in list I, and universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies."

10. "Economic and social planning."

11. "Archaeological sites and remains other than those declared by or under law made by parliament to be of national importance."

12. Padma Rao, "Luminous Lakkundi", *Deccan Herald*, Dec. 21, 2019, available at: <https://www.deccanherald.com/spectrum/spectrum-top-stories/luminous-lakkundi-787295.html> (last visited on March 24, 2022).

13. Special Correspondent, "Government may set up Lakkundi development authority", *The Hindu* (February 12, 2017) available at: <https://www.thehindu.com/news/national/karnataka/Govt.-may-set-up-Lakkundi-development-authority/article17290068.ece> (last visited on March 24, 2022).

14. DHNS, "Lakkundi Development Authority to be set up at a cost of Rs. 3 crore", *Deccan Herald*, March 16, 2017, available at: <https://www.deccanherald.com/content/601607/lakkundi-development-authority-set-up.html> (last visited on March 24, 2022).

of Sarvajna in Haveri district as well as a few other places situated in and around Hirekerur, Abalur and Masur of Hirekerur taluk in Haveri district. Sarvajna was a famous Kannada social reformer, philosopher and poet and is said to be from the ('backward') Kumbara community. The move of establishing a dedicated high-level authority (with the chief minister as chairman) for the development of the Sarvajna Kshetra can be seen as noted by some, as an attempt by the party in power, the BJP, to woo the OBC community which make up almost 20 percent of Karnataka's population.<sup>15</sup> The enactment of this legislation has led to other groups demanding that similar authorities be put in place for other noted personalities as well.<sup>16</sup>

## Land

### *Land Grabbing*

The Karnataka Land Grabbing Prohibition Act came into force in 2014 to protect land belonging to the government, Wakf Board, Hindu religious institutions and charitable endowments, local authorities, or other government statutory or non-statutory bodies (referred to as the protected land in this essay). In response to the rampant land grabbing in the state,<sup>17</sup> the government enacted the Karnataka Land Grabbing Prohibition (Amendment) Act, 2020.<sup>18</sup>

The amendment inserted a proviso in the definition of 'land' in the parent Act, to exclude certain types of land from the ambit of protected land under the statute. There are two primary exclusions made. The first relates to lands in respect of which applications for grant are pending as on the date of the amendment under sections 94A, 94B, 94C and 94CC of the Karnataka Land Revenue Act, 1964, which primarily deal with applications for regularisation of certain cases of unauthorised occupation of land, including where dwelling houses have been constructed. These regularisation exceptions are patently intended to cover smaller pieces of land and small homes and try to strike a balance between the necessity to adhere to town and country planning laws, zoning laws and the factual reality of the general messiness of human occupation and utilisation of land. The second exception is land covered under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, a central legislation that seeks to protect the rights of traditional forest dwellers.

The bulk of the amendment deals with which court has jurisdiction over land grabbing offences. It has been clarified that it is the special courts set up under the parent Act. The amendment also introduced the ability of the special courts to try offences in a summary manner. Civil appeals now lie to the high court if there is a substantial question of law. Appeals against orders determining criminal liability now also lie to the high court.

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15. D.P Satish, "Caste Census Stumps Siddaramaiah Govt.", *News18*, March 15, 2018, available at: <https://www.news18.com/news/politics/dalits-muslims-outnumber-lingayats-and-vokkaligas-in-karnataka-caste-census-stumps-siddaramaiah-govt-1689531.html> (last visited on March 24, 2022).
  16. Sangamesh Menasinakai, "Low-key anniversary fete miffs Sharif enthusiasts", *Times of India*, July 6, 2020, available at: <https://timesofindia.indiatimes.com/city/hubballi/low-key-anniversary-fete-miffs-sharif-enthusiasts/articleshow/76802934.cms> (last visited on March 24, 2022).
  17. Oftentimes through criminally creative methods. See, for example, Johnson TA, "Karnataka HC intervention unearths Bengaluru land grab racket using fake suits", *The Indian Express*, Aug. 31, 2021, available at: <https://indianexpress.com/article/cities/bangalore/karnataka-high-court-intervention-unearts-bengaluru-land-grab-racket-using-fake-suits-7477532/> (last visited on March 24, 2022).
  18. Under entries 18 and 64 of list II (18 - Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization) and (64 - Offences against laws with respect to any of the matters in this list).

It should be noted that the lack of appeal procedure was one of the grounds under which a PIL had been filed challenging the constitutional validity of the parent Act itself. The amendment was passed during the pendency of the PIL<sup>19</sup>.

### ***Bangalore Development Authority (Amendment) Act, 2020***

While on the topic of land grabbing, the Bangalore Development Authority (Amendment) Act, 2020 must be touched upon. This legislation sought to amend the underlying Act, to allot BDA sites to the original owner or purchaser thereof or *unauthorized occupant who is in settled possession for 12 years before the commencement of the Amendment Act*, where *inter alia* the BDA could not make sites or include such sites in its schemes of layout formations. This amendment has generated quite a bit of controversy and PILs have been filed against it as well. According to one of the PILs, the amendment is detrimental to Bangalore residents, as it incentivises land-grabbers to illegally occupy government land, safe in the knowledge that such illegal occupation would eventually be legalised and regularised. The Karnataka high court has passed orders that any action on regularisation of illegal constructions on BDA land, would be subject to final orders on the PILs challenging the legality of the amendments.<sup>20</sup>

## **Land Reforms**

### ***The Karnataka Land Reforms (Second Amendment) Act, 2020***

Despite strong opposition and criticism from the relevant stakeholders, the government of Karnataka amended the *Land Reforms Act, 1961* to introduce reforms related to the holding, transfer, and sale of agricultural land. Earlier, agricultural land could only be owned by agriculturists (*persons who personally cultivate such land*). Further, the sale of such land was prohibited to certain other categories of people, including: (i) non-agricultural labourers, (ii) agriculturists with land holdings higher than prescribed ceiling limits, and (iii) persons having an assured annual income of Rs 25 lakh or more from non-agricultural sources. *The Karnataka Land Reforms (Second Amendment) Act, 2020* now allows for non-agriculturists to buy agricultural land, and also removes the income limit for the purchase of land. However, the restriction on ceiling limits on land holdings continues to remain in place.<sup>21</sup>

### ***The Karnataka Land Revenue (Second Amendment) Act, 2020***

The Karnataka Land Revenue (Second Amendment) Act, 2020 amended the Karnataka Land Revenue Act, 1964 to provide for a definition of ‘*land-locked kharab land*’, and to allow the disposal of such land in the city and outskirts,<sup>22</sup> to the owner of the surrounding land at prescribed rates not less than the market value guidelines.

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19. In January 2021, the Karnataka high court upheld the validity of the parent Act, with some directions. The high court directed the state to set up special courts, preferably in every district, as at the moment, only one special court exists in Bengaluru for the entire state. It also held that the special court must mainly adopt the procedure for trial of warrant cases as prescribed in the code of criminal procedure, and would have to record in writing the reasons in case of adopting the procedure prescribed to conduct trials in a summary manner. It also struck down as unconstitutional the following provision in section 9(4) of the parent Act: “*additional evidence, if any adduced in the civil proceedings shall not be considered by the special court while determining the criminal liability.*”

20. Special Correspondent, “HC rider on new BDA law”, *The Hindu*, May 26, 2021, available at: <https://www.thehindu.com/news/cities/bangalore/hc-rider-on-new-bda-law/article34643820.ece> (last visited on March 24, 2022).

21. Juhi Mehta and Sindhu Sharma, “Amendments to Karnataka Land Reforms Act”, *AXFAIT*, Nov. 26, 2020, available at: <https://www.axfait.com/post/amendments-to-karnataka-land-reforms-act> (last visited on March 24, 2022)

22. up to 18 kilometres from the BBMP limits, up to 10 kilometres from the limits of other city corporations and up to five kilometres from the limits of other cities

The amendment also allows for the disposal of ‘grant of government lands’ (sic) leased for more than fifteen years to societies, charitable or religious institutions, or educational institutions ‘or agriculture or for other purposes’ (sic) at prescribed rates not less than the prevailing market value guidelines as a one-time measure if it is for the same purpose; and at double the rate of prevailing market value guidelines if it is for any other purpose.

Land locked kharab land refers to non-arable government land that is located in the midst of other land parcels, without access to the public by road or foot or otherwise, and as such cannot be used for any public purpose. This amendment allows the government to realise value from the sale of such land as well as from the specific type of leased lands, mentioned above.

## Health and Environment

The state government in conformity with the decision of the supreme court of India<sup>23</sup> in a PIL challenging the validity of several laws that discriminate against the leprosy – afflicted, passed the Karnataka Prohibition of Beggary (Amendment) Act, 2020<sup>24</sup> to amend the Karnataka Prohibition of Beggary Act, 1975. The main change made is in section 14. Prior to the amendment, the section was titled ‘*Medical examination and detention of leprosy patients and lunatics*’, and allowed the government to have detained beggars removed to *inter alia*, ‘*mental hospitals*’ or ‘*leper asylums*’, through reasoned orders for such removal. The new section does away with these loaded terms, and talks instead of “Medical examination and detention of beggars under certain circumstances,” ‘*mental illness*’, ‘*contagious disease*’, and “*mental health establishment or a government or private hospital or medical institution*.”

Similarly, the Kannada University and Certain Other Laws (Amendment) Act, 2020 was passed in pursuance of the SC’s judgment in W.P.(Civil) No:1151/2017, to amend the Kannada University Act, 1991, the Karnataka Rajya Dr. Gangubai Hangal Sangeetha matthu Pradarshaka Kalegala Vishwavidyalaya Act, 2009 and the Karnataka Samskrita Vishwavidyalaya Act, 2009 to remove the provisions relating to the discrimination against the persons suffering from leprosy in the above said legislations. The Kannada University Act in section 7 disqualifies certain persons from election or nomination to university authorities. Prior to amendment, persons suffering from leprosy were so disqualified. While the amendment is laudable, what is worth noting is that the deaf and mute are still so disqualified. A similar position is seen in the Performing Arts University and the Sanskrit University legislations. Will it take another PIL to have these removed, too?

## State Government’s Response to the COVID-19 Pandemic

From contagious diseases to the ongoing coronavirus pandemic is a small step. In response to the pandemic, the government of Karnataka enacted various legislations to achieve different objectives, primarily affecting different classes of people, and driven by different urgent considerations.

Reducing in-person interactions and increasing the use of technology to facilitate payments electronically has been one of the key features of the pandemic response almost globally. The Karnataka Court Fees and Suits Valuation (Amendment) Act, 2020 now has allowed for electronic modes of transfer for payment or refund of court fees, thus reducing the need for people to make such payments

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23. *Pankaj Sinha v. Union of India*, Writ Petition (Civil) No. 767/2014, dated July 5, 2018 read with *Vidhi Centre for Legal Policy v. Union of India*, Writ Petition Civil No. 1151/2017(PIL-W) dated, April 24, 2018.

24. Under entries 15 and 16 of the concurrent list, dealing with respectively, vagrancy, nomadic and migratory tribes; and lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.

in person. While this benefits those with access to the technology and bank accounts necessary to allow for such cashless transactions, what is glaring is the absence of measures taken for the benefit of those with no such access, persons who are dependent on day-to-day cash earnings for their livelihood, including daily wage labourers, and migrant labour.

A whole set of other measures have financial or taxation related underpinnings. The Karnataka Legislature Salaries, Pensions and Allowances and certain other Laws (Amendment) Act, 2020 provides for the reduction in salaries and allowances of the chief minister, ministers, minister of state, deputy minister, chairman, deputy chairman, speaker, deputy speaker, leader of opposition, government chief whip, opposition chief whip, members of the legislative assembly and the legislative council. This measure was taken to ensure that the money saved by doing so could be used as part of the COVID relief fund.

The government also amended the Karnataka Goods and Services Tax Act, 2017 to: (a) extend the period provided to file an application for revocation of cancellation of registration; (b) increase the time limit provided for removal of difficulties for the availing input tax credit without invoice or bill from three years to five years; and (c) to make the offence of fraudulent availment of input tax credit without invoice or bill cognizable and non-bailable and to make any person who retains the benefit of certain transactions and at whose instance such transactions are conducted liable for punishment. These extensions and certain relaxations were given due to the ravaging effect corona virus had on economic activities. Further, some of these changes were necessary to overcome difficulties seeded by the new tax regime.

One worrisome trend that Karnataka has seen over the last few years is violence in hospitals. There have been several instances where aggrieved families of patients who have succumbed to illness or disease, find a vent for their emotions in assaulting the attending medical personnel or staff, or in vandalising the premises. The pandemic has unfortunately aggravated this.<sup>25</sup> In order to combat the increasing violence against healthcare workers, the government of Karnataka enacted the Karnataka Epidemic Diseases Act 2020 (Epidemic Diseases Act) to protect healthcare workers and officials engaged in COVID-19 related duties. The Epidemic Diseases Act provides for stringent punishment to persons who come in the way of the healthcare officials' duties or those who vandalise public or private property. It provides for imprisonment from six months to three years and a fine of up to INR 50,000 for those who contravene the provisions of this law. The government has the right to recover twice the value of the property from persons who are found to have been involved in damaging public or private property. The Epidemic Diseases Act also allows the government to prohibit acts that may increase transmission, inspect passengers suspected of infection, seal state or district borders, restrict the operation of public and private transport; prescribe social distancing norms; restrict congregations in public places; regulate functioning of offices and a host of other measures necessary to control epidemics.

## **State Public Services, State Public Service Commission**

The Karnataka Lokayukta (Second Amendment) Act, 2020<sup>26</sup> amended the Karnataka Lokayukta Act, 1984 to fix time frames within which preliminary inquiry and investigation are to be conducted by the

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25. Express News Service, "Violence against doctors: IMA writes to PM, CM", *The New Indian Express*, July 24, 2020, available at: <https://www.newindianexpress.com/states/karnataka/2020/jul/24/violence-against-doctors-ima-writes-to-pm-cm-2173989.html> (last visited on March 24, 2022).

26. under entry 41 of list II, state public services; State Public Service Commission.

Lokayukta or Upalokayukta; and reports are to be submitted to the competent authority by Lokayukta or Upalokayukta. The motivation behind the amendment is speedy disposal of pending grievances or complaints. As per the amendment, preliminary inquiries must be conducted within 90 days of receiving a complaint, and minor investigations must be completed within six months. If officials exceed this time limit, a written explanation, seeking more time must be provided.<sup>27</sup>

## Ease of Doing Business v. Labour Rights

‘Welfare of labour’ is the twenty-fourth entry in the concurrent list, and as such within the jurisdiction of both the centre and the states. The National Commission on Labour constituted by the government of India in 1999,<sup>28</sup> recommended that the existing labour laws could be grouped into well recognized functional groups. While the ultimate object must be to incorporate all such provisions in a comprehensive code, such a codification may have to be done in stages. It is therefore well-recognised at a policy level that minimum levels of protection to workers are a must. The competing objective is also for India to better its rankings in the ‘Ease of Doing Business’ directory compiled by the World Bank.<sup>29</sup> This dialectic is a very uneasy one and as may be expected, those without institutional power do seem to get the short end of the stick.

After years, the government of India set out to consolidate the legislations into thematic codes over 2019-2020: (a) Code on Wages, 2019 (b) Occupational Safety, Health and Working Conditions Code, 2020 (OHSC Code); (c) Industrial Relations Code, 2020 (IR Code); and (d) Code on Social Security, 2020 (SS Code). The Code on Wages was passed in 2019 while the bills for the OHSC Code, IR Code and SS Code were initially tabled in 2019 and in 2020, those bills were withdrawn and replaced by fresh bills which were finally passed and received presidential assent. These four codes aim at overhauling and consolidating 29 existing labour laws in India based on functionality. The pandemic and the following national lockdown led to the highlighting of the lack of social security coverage for the informal sector which forms the backbone of most industries. This laid the impetus for the speedy introduction of three labour codes. These herculean efforts seem to have earned the distinction of making nobody very happy.<sup>30</sup>

This background has been mentioned to highlight what has been happening on the national stage, even as the state stage is analysed. Karnataka also undertook several measures in 2020 to facilitate ease of doing business for industries. The Karnataka Industries (Facilitation) (Amendment) Act, 2020 amended the existing law to ease the process of setting up of manufacturing industries or enterprises by establishing separate nodal agencies to facilitate investments and establishments of enterprises in the state. These agencies may issue certificates of in-principle approval to new enterprises, in lieu of individual approvals and departmental clearances.

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27. See, Shruthi Sastry, “Strengthen Lokayukta with adequate resources: MLCs”, *Deccan Herald*, Sep. 24, 2020, available at: <https://www.deccanherald.com/state/top-karnataka-stories/strengthen-lokayukta-with-adequate-resources-mlcs-892584.html> (last visited on March 24, 2022).

28. With the following terms of reference: To suggest rationalization of existing laws relating to labour in the organized sector; and to suggest an “umbrella” legislation for ensuring a minimum level of protection to the workers in the un-organized sector.

29. See for example, Ease of Doing Business Ranking, available at: <https://www.makeinindia.com/eodb#> (last visited on March 24, 2022)

30. See, Poornima Hatti and Nivedita Udupa, “Overhaul of Indian Employment Laws: A step forward but a missed opportunity”, *AXFAIT*, June 15, 2020, available at: <https://www.axfait.com/post/overhaul-of-indian-employment-laws-a-step-forward-but-a-missed-opportunity> (last visited on March 24, 2022).

Karnataka also amended the Karnataka Shops and Commercial Establishments Act, 1961 to conditionally allow all women employees to work night shifts. Previously, only women employees of information technology or IT-enabled services were permitted to work night shifts, subject to certain safety and security conditions such as free transport. The amended law extends these provisions to other establishments, and allows for night shifts with written consent from the women employees. The question of consent in an unequal power relationship is of course questionable. Given the limited applicability of the Karnataka Shops and Commercial Establishments Act, 1961 on account of the wide-ranging exemptions in section 3 (which excludes persons enjoying management positions), it is important to ask the question as to who this amendment seeks to target, and eventually, benefit. Employer-employee relationships are not the most equal in terms of negotiating power, specifically when it comes to workers outside the managerial level, and an enabling amendment which seeks to allow women to work night shifts may do more harm than good.

The ID ordinance, in one fell swoop, sought to amend the following central legislations. A double-edged sword, on the one hand, it serves to protect certain industries, on the other, it curtails fundamental rights of employees as well as trade unions.

- a) Industrial Disputes Act, 1947: While the 1947 Act stated that industrial establishments employing up to 100 workers would have to seek government approval in matters relating to layoffs, retrenchment and closures, the ID ordinance now exempts industrial establishments that employ up to 300 workers from seeking approval in relation to the aforesaid matters. This gigantic leap from 100 to 300 workers would prove detrimental to the interest of workers employed in small scale industries.
- b) Factories Act, 1948: Section 65(3)(iv) of the Factories Act was amended to increase the overtime limit from 75 to 125 hours.
- c) Contract Labour (Regulation and Abolition) Act, 1970 (CLRA): The changes to the CLRA will exempt factories employing up to 50 (fifty) workmen from its provisions as opposed to 20 (twenty) workmen under the erstwhile regime.

A strong stance was taken by the legislature in response to the uproar created by the controversial ID Ordinance, 2020 which tweaked labour laws to the disadvantage of the workers. The bill introduced to replace the ordinance was defeated soundly in the legislative council by a united opposition. The government put the plan of repromulgating this controversial ordinance in cold storage fearing strong resistance from the labour unions.

## **The State as a Technology Hub**

Bangalore in particular, and Karnataka in general, is perceived as India's Silicon Valley and is the start-up capital of the country, with a host of startups and venture capital / private equity funds headquartered in the state. The Karnataka government therefore does make the best efforts it can to nurture this ecosystem. The Karnataka Innovation Authority Act, 2020 aims to establish "Regulatory Sandboxes" wherein, innovators are allowed a small window of exemption from certain prescribed regulatory challenges for a specified period to carry out innovation and the state also gets to observe such innovations. The time period for such sandboxes is one year, but it may be suitably extended as per the terms of the legislation. It is worth noting that startups have been hesitant to avail themselves of this opportunity as they perceive that it would bring them directly into the gaze of the government and authorities which may not always be a benevolent one.

Karnataka has been trying to create an impetus for the use of electric vehicles in view of the environmental benefits of moving away from fossil fuels. In this regard, the Karnataka Stamp (Amendment) Act, 2020 was passed to amend the Karnataka Stamp Act, 1957 provide 100percent exemption from stamp duty with respect to certain purchases or leases of land used for EV related projects.

## Conclusion

An examination of the nature of legislative activity of Karnataka assembly shows that the year was heavily influenced by the executive, primarily on account of the COVID pandemic which necessitated swift action on part of the government. Compared to previous years<sup>31</sup> when only a handful of ordinances were brought in, 2020 marked a stark difference with a total of 24 ordinances being promulgated.

Karnataka has a history of promoting local self- governance and encouraging people's participation. At the same time, in recent years more authoritarian trends of governance and law making are creeping in. The year under survey demonstrates the pulls and pressures of both modes of operation. The local governance legislations indicate that the inclination is towards devolution of power. However, from the speed at which legislations were passed and ordinances converted into statutes, it is evident that values of discussion, deliberation and debate have been given short shrift and it is mechanistic production which is in operation.

Karnataka was among the few states where legislators took a pay cut to enhance resources for the pandemic needs of the people; yet the ease with which breach of safety regulations were criminalised speaks of authoritarian tendencies.

The year was marked by attempts on part of Karnataka government to promote industries and job opportunities in the state as a measure to rejuvenate the economy which was battered by the COVID pandemic. However, in its attempt to woo the industrialists (employer), the ordinance brought in by the government disregarded the concerns of the labour unions. The ensuing uproar resulted in the bill being defeated in the council.

Whilst Bangalore has been known countrywide for its cosmopolitan culture, the use of the power to protect certain monuments and archaeological sites may point towards more parochial sentiments starting to gain ascendance.

It would be interesting to watch in the years to come, whether any of these tendencies will triumph or whether the democratic spirit of the state would continue to function in this fast and loose manner.

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31. In 2017, only one ordinance was promulgated. Department of Parliamentary Affairs and Legislation (DPAL), Chronological List of Karnataka Ordinances for 2017, *available at*: <https://dpal.karnataka.gov.in/new-page/2017/kn> (last visited on March 24, 2022).

In 2018, no ordinance was promulgated. DPAL, Chronological List of Karnataka Ordinances for 2018, *available at*: <https://dpal.karnataka.gov.in/new-page/2018/kn> (last visited on March 24, 2022).

In 2019, a total of three ordinances were promulgated. DPAL, Chronological List of Karnataka Ordinances for 2019, *available at*: <https://dpal.karnataka.gov.in/new-page/2019/kn> (last visited on March 24, 2022).