

The Annual Survey of State Laws in India

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UTTAR PRADESH

Faizan Mustafa¹

Introduction

Uttar Pradesh has the largest legislature in India. It is one of the six states with a bicameral legislature (others include Andhra Pradesh,² Bihar, Karnataka, Maharashtra, and Telangana), comprising of a lower house called the Uttar Pradesh legislative assembly and an upper house described as the Uttar Pradesh legislative council. Presently, the legislative assembly has 403 members along with one nominated Anglo-Indian member, while the legislative council has 100 members. Prior to 1967, the strength of the legislative assembly was 431 members, including one nominated Anglo-Indian member, which was revised to 426, including one nominated Anglo-Indian member. After the reorganisation of the state and the formation of Uttarakhand on November 9, 2000, the strength of the legislative assembly was reduced to 404, including one nominated Anglo-Indian member.

Performance of Uttar Pradesh Assembly: An Overview

Due to the onset of the COVID-19 pandemic and subsequent lockdowns, the Assembly's functioning days and hours were at their lowest in 2020. It operated for only 13 days, with a total of 61.5 working hours divided into two sessions.³ The first session was held from March 13, 2020 to March 14, 2020, while the second session was held from August 20, 2020 to August 24, 2020. The average working days for the previous three years of the seventeenth legislative assembly were 23.67 days. The working hours for 2017, 2018 and 2019 range between 90 and 100 hours per year. (See Figure 1.)

During this period, a total of 37 bills were introduced, out of which 31 were enacted as legislations. Moreover, during the term of seventeenth legislative assembly, 45 percent of the bills (excluding 14 appropriation bills) were passed on the same day that they were introduced, while 29 percent were passed on the next day. (See Figure 2.) Until December 2021, 146 bills were introduced and passed in the Uttar Pradesh Assembly (excluding appropriation bills). All the bills introduced were passed in the same session. None of the bills during this term was referred to a select committee.⁴ This is a new trend. Even in parliament, in the last seven years, only a small number of bills have been sent to

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 2. For the trials and tribulations on the abolition and retention of the Andhra Pradesh Legislative Council, see the Andhra Pradesh survey *supra*.
 3. PRS Legislative Research, "Functioning of 17th Uttar Pradesh Assembly (2017-2022)", available at: <https://prsindia.org/legislatures/states/functioning-17th-uttar-pradesh-assembly-2017-2022> (last visited on Jan. 21, 2022).
 4. PRS Legislative Research, "Vital Stats, Functioning of 17th Uttar Pradesh Assembly", available at: <https://prsindia.org/policy/vital-stats/functioning-of-the-17th-uttar-pradesh-assembly> (last visited on Jan. 21, 2022).

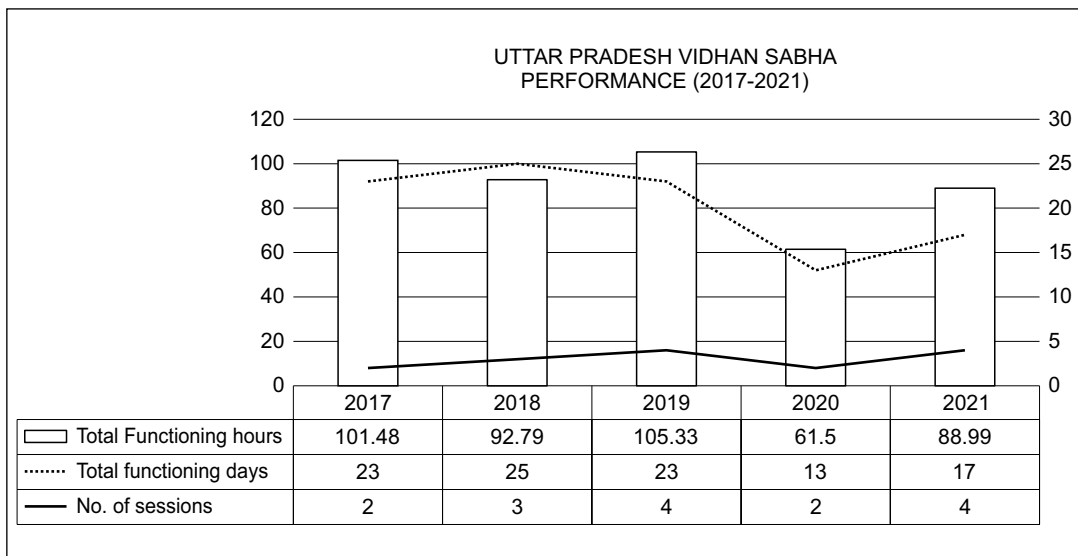


Figure 1: Functioning of the Uttar Pradesh Legislative Assembly

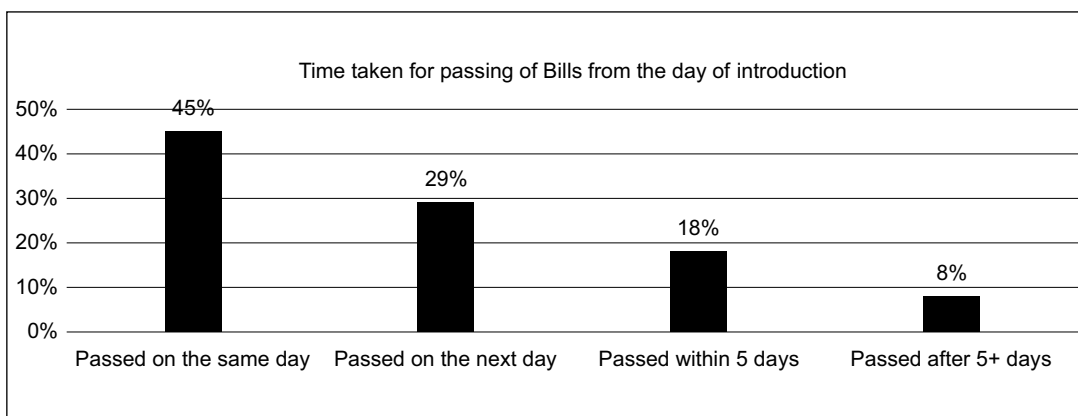


Figure 2: Time taken to pass bills after introduction

a select committee. In the second session of 2020, the number of bills introduced and passed was 27, which is the highest for any session over the previous years. The Assembly met for only three days in that session.

The year 2020 also saw the highest number of ordinances being promulgated, many of which were criticised on several grounds.⁵ Totally, 57 ordinances were promulgated during the seventeenth

5. The Recovery Act was criticised by the supreme court in its order dated Feb. 18, 2022 for being violative of principles of natural justice and for being enacted contrary to the guidelines laid down by the apex court in 2011 and 2018. Mehal Jain, "Following Supreme Court's Criticism, UP Govt Withdraws Recovery Notices Issued To Anti-CAA Protesters Before 2020 Act", *LiveLaw*, Feb. 18, 2022, available at: <https://www.livelaw.in/top-stories/supreme-courts-criticism-up-govt-withdraws-recovery-notices-issued-anti-caa-protesters-directs-refund-recoveries-192249>

legislative assembly, 23 of which were introduced and passed as statutes in 2020. Significant among these were the Uttar Pradesh Recovery of Damages to Public and Private Property Act, 2020, the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2020 and the Uttar Pradesh Prevention of Cow Slaughter (Amendment) Act, 2020.

Sectoral Classification of Statutes/Ordinances

The statutes enacted and ordinances promulgated in 2020 may be categorised under the following sectors: agriculture, education, finance/taxation, health, land, law and order, and religion.

Agriculture

In 2020, Uttar Pradesh enacted three laws on agriculture. These included: (i) the Uttar Pradesh Krishi Utpadan Mandi (Sanshodhan) Adhiniyam, 2020; (ii) the Uttar Pradesh Krishi Utpadan Mandi (Dwitiya Sanshodhan) Adhiniyam, 2020; and (iii) the Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) (Amendment) Act, 2020.

The Uttar Pradesh Krishi Utpadan Mandi Adhiniyam, 1964 provides for the regulation of sale and purchase of agricultural produce and for the establishment, superintendence and control of markets in Uttar Pradesh. The Amendment Act empowers the state government to exempt specified agricultural produce or products from the mandi fee (excluding development cess). To qualify for this exemption, the produce must be a raw material that will be used by newly established agricultural processing units. The government must be when it is satisfied that it is necessary and expedient in the public interest to encourage the setting up of the industrial or agro-processing units in the state and to promote the marketing of the specified agricultural products. To qualify for such exemption, the cost of the plant and machinery of the unit should not be less than five crore rupees. Once the condition is fulfilled the unit can sell in the mandis without paying a fee.⁶ The Uttar Pradesh Krishi Utpadan Mandi (Dwitiya Sanshodhan) Adhiniyam, 2020 amends the 1964 Act to facilitate development of mandi sub-sites. Most of the amendments are in accordance with the central government guidelines in the context of COVID-19. They deal with the decentralisation of mandi sites to stop farmers and traders from crowding at the main mandis and to comply with the social distancing norms.

The Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) (Amendment) Act, 2020 adds the provision for a no-confidence motion against the chairman of the Cane Development Council. The chairman against whom a no-confidence motion has been passed will be removed from office and replaced by a successor. The successor will be chosen from among the council's non-government members in accordance with the procedures provided under the Act.

6. Since the central farm law on which this amendment was based has now been repealed, what the new Assembly would do remains to be seen.

Education

With seven bills, Uttar Pradesh was among the states⁷ that enacted a high number of laws relating to education in 2020. The Assembly introduced three bills dealing with the establishment of three universities: (i) State University of Police and Forensic Science at Lucknow,⁸ (ii) State Ayush University in the district of Gorakhpur,⁹ and (iii) National Law University at Prayagraj.¹⁰ While the state does need a forensic science university to improve investigation of crimes and an Ayush university to promote indigenous methods of treatment, the need for another National Law University seems debatable since the Ram Manohar Lohiya National Law University is already there in Lucknow. But then Madhya Pradesh has two law universities and Maharashtra has as many as three National Law Universities.

The other two laws passed dealt with changing the names of two universities. The Uttar Pradesh Jagadguru Rambhadracharya Handicapped University (Amendment) Act, 2020 changed the name of “Jagadguru Rambhadracharya Handicapped University” to “Jagadguru Rambhadracharya Divyanga University”. This was in light of the decision of the government of India to refer to “handicapped persons” as “divyang” and thereby give them due respect.¹¹ The Act also amended section 4 of the principal Act, which had surprisingly provided that the university would not be entitled to any grant-in-aid or any financial assistance from the state government or any other body or corporation owned or controlled by the state government. Subsequently, the provision was amended to allow the university to receive grants or financial assistance from the central and state governments and non-government organisations. In reality, there is need for large public investment in higher education to make it accessible to the economically disadvantaged sections of the population.

Similarly, the Uttar Pradesh State Universities (Amendment) Act, 2020 changed the name of the “Khwaja Moinuddin Chishti Urdu, Arabi, Pharsi University, Lucknow” to “Khwaja Moinuddin Chishti Language University, Lucknow”. The University was established in 2009¹² for teaching and research in Urdu, Arabi and Pharsi Languages. Later on, the Uttar Pradesh State Universities (Amendment) Act, 2010 changed the name of the University to “Uttar Pradesh Urdu, Arabi-Farsi University”. It was renamed “Manyavar Shri Kanshi Ram Ji Urdu, Arabi-Farsi University” in 2011¹³ to honour the politician and social reformer Kanshi Ram. A year later, it was again renamed as “Khwaja Moinuddin Chishti Urdu, Arabi-Farsi University”¹⁴ in honour of the Sufi saint Mu’in al-Din Chishti of Ajmer. The frequency with which the names of cities and universities have been changed shows that universities and their names have not been exempt from political battles.

The other two laws passed in the field of education in 2020 included the Uttar Pradesh State Universities (Second Amendment) Act, 2020 and the Uttar Pradesh Self-Financed Independent Schools (Fee

7. The other states are Karnataka (seven) and Andhra Pradesh (six).

8. The Uttar Pradesh Police and Forensic Science University Act, 2020 (Act 4 of 2020).

9. The State Ayush University, Uttar Pradesh Act, 2020 (Act 6 of 2020).

10. The Uttar Pradesh National Law University, Prayagraj, Act, 2020 (Act 26 of 2020).

11. Ambika Pant, “Use of ‘Divyang’ will not end discrimination, access to rightful entitlements will: Disability Rights Groups”, *The Times of India*, May 26, 2016, available at: <https://timesofindia.indiatimes.com/india/use-of-divyang-will-not-end-discrimination-access-to-rightful-entitlements-will-disability-rights-groups/articleshow/52456373.cms> (last visited on March 20, 2022). (It is a different matter that persons with disabilities have consistently opposed the nomenclature.)

12. The Uttar Pradesh Arabi, Pharsi University Act, 2009 (Act 12 of 2009).

13. The Uttar Pradesh State Universities (Amendment) Act, 2011 (Act 6 of 2011).

14. The Uttar Pradesh State Universities (Amendment) Act, 2012 (Act 5 of 2013).

Regulation) (Amendment) Ordinance, 2020. The former dealt with changing the territorial jurisdictions of Lucknow University and Chhatrapati Shahu Ji Maharaj University, Kanpur to reduce the difficulties faced by students and improve the management of the institutions. The latter amendment modified the Uttar Pradesh Self-Financed Independent Schools (Fee Regulation) Act, 2018 to add instructions with respect to the regulation of fees by the self-financed independent schools during emergencies and other special circumstances.

Finance/Taxation

The Uttar Pradesh Goods and Services Tax Act (GST), 2017 was amended three times during 2020. These amendments were largely aimed at the smoothening the procedures related to the filing of tax returns under the new GST laws. Thus, for example, the First Amendment Act, amended the provisions in order to implement a new return filing system which focuses on the annual filling of returns and quarterly payment of tax by taxpayers who opt for composition levy; and quarterly filing of return and monthly payment of tax for certain other categories of taxpayers.¹⁵ Similarly, the Third Amendment Act aimed to remove a number of other hardships in the tax regime such as procedures for opting out of registration or extending time to revoke cancellation of registration.¹⁶

The other major focus of the finance laws was to address the impact of the pandemic and lockdowns on the freedom of movement. These restrictions had caused delays in the filing of taxes. To grant relief to the taxpayers, the Uttar Pradesh Goods and Services Tax (Second Amendment) Act, 2020 and the Uttar Pradesh Value Added Tax (Amendment) Act, 2020 were passed, which allowed the government to extend the statutory time limit for actions which could not be completed or complied with due to force majeure. Another significant law passed was the Uttar Pradesh Contingency Fund (Amendment) Act, 2020, which increased the corpus of the Uttar Pradesh Contingency Fund from Rs. 600 crores to Rs. 1200 crores. This was done to meet the increase in the state's budget size over the years and to arrange for extra funds to fight the pandemic.

Fiscal Responsibility and Budget Management

Every state has its own law governing fiscal responsibility and budget management. These rules limit the state government's outstanding liabilities, revenue deficits, and fiscal deficits.¹⁷ They set a limit of three percent of gross state domestic product (GSDP) for the budget deficit. If states achieve the specific criteria, this deficit can be increased to 3.5 percent of GSDP. However, due to a paucity of resources with the states, which had to deal with the COVID-19 situation, the central government permitted states to borrow up to five percent of GSDP under specified conditions in the financial year 2020-2021.¹⁸ To avail of this enhanced limit, state governments had to amend their Fiscal Responsibility and Budget Management Acts.¹⁹

15. The Uttar Pradesh Goods and Services Tax Amendment) Act, 2020 (Act 5 of 2020).

16. The Uttar Pradesh Goods and Services Tax (Third Amendment) Act, 2020 (Act 24 of 2020).

17. The fiscal deficit is the difference between the government's receipts and expenditure, which it must cover by borrowing.

18. ET Bureau, "Centre raises borrowing limit of states from 3 pc of GSDP to 5 pc in FY21", *The Economic Times*, May 17, 2020, available at: <https://economictimes.indiatimes.com/news/economy/policy/centre-raises-borrowing-limit-of-states-from-3-pc-of-gsdp-to-5-pc-in-fy21/articleshow/75785946.cms?from=mdr> (last visited on Jan. 21, 2022).

19. The Uttar Pradesh Fiscal Responsibility and Budget Management (Second Amendment) Act, 2020 (Act 22 of 2020).

This amendment was also brought in to help the state cope with its decreased share in central taxes for the financial year 2019-2020. This reduction occurred because the government of India adjusted Rs. 58,843 crores against the states' share of central taxes to set off the lower tax revenue collected by the state in the previous financial year.

Consequently, the Uttar Pradesh Fiscal Responsibility and Budget Management (Amendment) Act, 2020 was passed, which amended the Uttar Pradesh Fiscal Responsibility and Budget Management Act, 2004, to sanction an additional borrowing of Rs. 10,570 crores for the fiscal year 2019-2020.

Health

To address to the COVID-19 pandemic, the state introduced the Uttar Pradesh Public Health and Epidemic Diseases Control Ordinance on May 11, 2020. The ordinance empowered the state government to notify any disease as an epidemic disease if it was satisfied that the normal provisions of law and medical practice were insufficient to control the spread of the disease. The state government could make regulations on quarantine, patient-tracing and take steps to prevent spread of rumours or other misinformation on the pandemic. The proclamation was to stay in force for three months but could be extended by the government.

The ordinance also provided for the constitution of top-heavy Epidemic Control Authorities at the state and district levels. The state authority consisted of the chief minister (as chairman), the medical and health minister, and the chief secretary among others. It would be responsible for advising the government and introducing uniform measures for preventing/controlling the spread of the epidemic and coordinating with the central government and other state authorities. Similarly, the district authority comprised the district magistrate (as chairman), the district superintendent of police, and the chief medical officer. The district authority had to ensure an adequate supply of essential commodities, and maintain public order. Significantly, it could also require any person or organisation dealing in tentage or temporary structures to raise such structures if needed or requisition any property, motor vehicles, or private medical and health facilities to control the spread of the epidemic.

The ordinance inter alia introduced an array of punishments to be imposed on people who wrongfully concealed themselves or violated quarantine orders or committed violence against public health officials. The state government also assumed the power to recover from individuals or organisations any losses it incurred by their deliberate or negligent conduct. These provisions were added in response to attacks on health workers who went to collect samples from suspected COVID-19 patients in a few districts in the state.²⁰

The Public Health and Epidemic Diseases Control Ordinance was issued despite the central government promulgating an ordinance to amend the Epidemic Diseases Act, 1887. In fact, subsequent to the central ordinance, there was no need for the states to come up with their own ordinances on this subject. More significantly, the punishments provided under the state's ordinance were inconsistent with the scheme of sentences provided in the substantive and general criminal law of the country, that

20. HT Correspondent, "CM Adityanath threatens action under NSA after doctors, cops attacked in UP", *Hindustan Times*, April 15, 2020, available at: <https://www.hindustantimes.com/india-news/stones-pelted-on-docs-ferrying-suspected-covid-19-patient-in-up-s-moradabad/story-LsoULfBWBwkVDpp09yqVnK.html> (last visited on Jan. 21, 2022).

is the Indian Penal Code, 1860. It seems like the political necessity of making a law trumped the legal limitations on the law-making power of the state.

Land

The Uttar Pradesh legislative assembly passed the Uttar Pradesh Revenue Code (Amendment) Act, 2020²¹ amending the Uttar Pradesh Revenue Code Act, 2006 to include the “people of the third gender” as members of a landowner’s family giving them succession and physical rights over the property. (The third gender being defined as a person who is of a gender different from the male or the female gender.) The Uttar Pradesh Revenue Code, 2006 was enacted to consolidate and amend the law relating to land tenures and land revenue of the state. This law replaced the Uttar Pradesh Zamindari Abolition & Land Reforms Act, 1952, which did not allow daughters a share in agricultural land if there were sons in the family.

Law and Order

Citing the supreme court’s guidelines given in *Re: Destruction of Public & Private Properties v. State of A.P.*,²² the Uttar Pradesh government introduced an ordinance which, according to its long title, aimed to “provide for recovery of damage to public or private property during hartals, bandhs, riots, public commotion, protests in respect of property”. Following the nationwide protests against the Citizenship Amendment Act in March 2020, the district authorities of Lucknow erected banners displaying the names, photographs, and addresses of individuals accused of causing damage to property during the protests in the city.²³ They sought compensation from the accused persons and threatened confiscation of the rioters’ properties if they failed to pay compensation. This provision was challenged in the Allahabad high court, which held that the publication of personal details of people violated Article 21 (right to life) of the Constitution. The court also noted that the publication of personal details of the accused persons merely to deter them from participating in illegal activities constituted an unwarranted intrusion into the privacy of persons.²⁴ But this did not stop the government from going ahead with promulgating the Uttar Pradesh Recovery of Damage to Public and Private Property Ordinance, 2020 to create a mechanism to recover damages for destruction of public or private property during any protest or riot.

The Act that replaced the ordinance empowered the state government to constitute a Claims Tribunal to decide on compensation claims for the damage caused to public or private property during strikes, protests, or riots.²⁵ The members of the tribunal were to be appointed by the state government.²⁶ The following qualified for appointment to the tribunal: (i) a retired district judge (as chairman); and (ii) an officer of the rank of additional commissioner (as a member).²⁷ The functions and powers of the tribunal included the following: (i) determining the damages caused to properties and awarding compensation;

21. Act 28 of 2020.

22. *Re: Destruction of Public & Private Properties v. State of A.P.*, (2009) 5 SCC 212.

23. Omar Rashid, “Now, police banners in Lucknow show anti-CAA protesters accused of violence”, *The Hindu*, March 6, 2020, 2020, available at: <https://www.thehindu.com/news/national/other-states/up-police-put-up-boards-identifying-anti-caa-protesters-accused-of-violence/article30998121.ece> (last visited on March 22, 2022).

24. *In Re Banners placed on the roadside in the City of Lucknow v. State of UP*, (2020) 5 All LJ 609.

25. The Uttar Pradesh Recovery of Damage to Public and Private Property Act, 2020 (Act 11 of 2020).

26. *Id* at s. 7(1).

27. *Id* at s. 7(3).

(ii) appointing a claims commissioner, if required, to estimate the damages and to investigate the case; (iii) appointing an assessor in every district to assist the claims commissioner in assessing the damage to property; and (iv) summoning video or other recordings to assist the claims commissioner and assessor in pinpointing the damage and establishing a connection with the perpetrators of the damage. The remuneration of the claims commissioner and the assessor in every case was to be determined by the state government. The claims commissioners were required to submit their report within three months or such extended time as may be granted by the Claims Tribunal.²⁸

Once the parties were heard, the tribunal was required to give its orders within one year (though preferably within three months) directing the amount of compensation to be paid. The claim was to be assessed based on the damage to property. However, the compensation could not be less than the market value of the property damaged on the day of the incident. The tribunal also had the power to award 'exemplary damages' up to double the amount of compensation liable to be paid, but the reasons had to be recorded in writing. Every order or award passed by the tribunal would be final and not appealable before any court.

The constitutionality of the ordinance was challenged on several grounds before the Allahabad high court. The major point of contention was the authorisation to publish the names, addresses and photographs of defendants. The court found the authorisation violative of the right to privacy which the supreme court, in 2017, conclusively found to be a fundamental right encompassed within article 21.²⁹ Similarly, the Allahabad high court found provisions of the ordinance that allowed hearing of the case in the absence of the opposite party or conferred finality to the orders passed by the tribunal to be arbitrary.³⁰

The state also enacted another legislation to create the Uttar Pradesh Special Security Force (UPSSF) for the protection and security of notified individuals or establishments.³¹ The UPSSF was modelled after the Central Industrial Security Force (CISF) and tasked with protecting people, court premises, administrative offices, shrines, metro rail, airports, banks, and industrial undertakings notified by the state government. On request and payment of prescribed fees, the UPSSF could also be directed to provide protection to private establishments. Furthermore, a member of the UPSSF was also permitted to arrest and search a person and her/his belongings without a magistrate's order or warrant.

Law and Religion

The Uttar Pradesh Prevention of Cow Slaughter Act, 1955, prohibited cow slaughter and deemed the transportation of cows outside the state for slaughter to be illegal. Consumption of beef, defined as the flesh of cow (including bull or bullock), was prohibited but flesh in sealed containers imported into U.P was exempt. The aforementioned Act was amended in 1958, 1961, 1979 and 2002 whereas the rules were

28. *Id* at s. 8.

29. *Justice K. S. Puttaswamy v. Union of India*, AIR 2017 SC 4161.

30. Omar Rashid, "Allahabad High Court terms U.P's recovery of damages ordinance arbitrary", *The Hindu*, March 19, 2020, available at: <https://www.thehindu.com/news/national/other-states/allahabad-high-court-terms-ups-recovery-of-damages-ordinance-arbitrary/article31103077.ece> (last visited on March 22, 2022). The Supreme Court too made similar observations about this Act and consequently the government has withdrawn the notices through two GOs dated Feb. 14 and Feb. 15, 2022.

31. The Uttar Pradesh Special Security Force Act, 2020 (Act 27 of 2020).

amended in 1964 and 1979. In 2020, under the Bhartiya Janata Party government, the extant law on cow protection was further amended to enhance the protection provided to cows and to prevent their slaughter.³² The amended law penalises the driver, operator, and the owner of any vehicle transporting beef unless proven that the transportation was done by another without the vehicle owner's knowledge.

This stringent measure was first introduced by an ordinance in 2020, which was subsequently converted into an Act. The Prevention of Cow Slaughter Act, 1955—the existing legislation—had permitted the slaughter of bull/bullock after obtaining a “fit-for-slaughter” certificate. Such a certificate could be applied for provided the cattle was over 15 years of age and had become permanently unfit for breeding or any agricultural activities. The maximum punishment for the offence of cow slaughter was seven years in the 1955 Act.

The Amending Act made punishments for illegal transport of cow and its progeny more stringent. A first offence could be punishable with imprisonment, which could range from one to ten years, and a fine of one to three lakh rupees. A second offence could result in ten years in prison and a fine of up to five lakh rupees.

The criminalisation of cow slaughter has been undertaken without recognising that many farmers and cattle ranchers find it difficult to keep cattle above their productive age.³³ Furthermore, different high courts, human rights organisations and civil society organisations found that these laws are being abused to target particular communities.³⁴ Unfortunately, it is not noted that, in a number of states, including Uttar Pradesh, as per the Cattle Census the population of cows is going down in comparison to buffaloes.³⁵ Such laws may instead of providing protection cause the extinction of cows as farmers may stop rearing them.

Another controversial ordinance promulgated in the state was the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020, which allows the government to regulate religious conversions and prohibit certain types of religious conversions. This ordinance was also subsequently approved as a legislation by the Assembly. The ordinance and the pursuant statute prohibit religious conversion through: (i) force, misrepresentation, undue influence and allurement, or (ii) fraud, or (iii) marriage. Moreover, a marriage is liable to be declared void if it was entered into for the sole purpose of unlawful conversion. Under the law, anyone who wishes to marry after converting to a different religion must obtain approval from the district magistrate two months before the wedding. Punishment under the new law is a prison sentence between one to five years, and a fine of Rs. 15,000. However, if the woman involved is a minor or belongs to a scheduled caste or a scheduled tribe, the jail term ranges from three to ten years and the fine increases to Rs. 25,000. Moreover, the Conversion Act also prohibits mass conversions, the punishment for which is imprisonment from three to ten years and a fine of Rs. 50,000, which will be imposed on the organisation which undertake such activities.

32. The Uttar Pradesh Prevention of Cow Slaughter (Amendment) Act, 2020 (Act 20 of 2020).

33. Prachi Salve, “Cow Protection Ideologues Are Destroying Livelihoods” *IndiaSpend*, March 10, 2020, available at: <https://www.indiaspend.com/cow-protection-ideologues-are-destroying-livelihoods> (last visited on March 22, 2022).

34. Vatsala Gaur, “Cow slaughter law being misused against innocent persons, says Allahabad High Court”, *The Economic Times*, Oct. 26, 2020, available at: <https://economictimes.indiatimes.com/news/politics-and-nation/cow-slaughter-law-being-misused-against-innocent-persons-says-allahabad-high-court/articleshow/78875582.cms?from=mdr> (last visited on March 22, 2022).

35. Bharath Kancharla, “Data: Many states witness a decline in the Cattle population”, *FACTLY*, Jan. 5, 2021, available at: <https://factly.in/data-many-states-witness-a-decline-in-the-cattle-population/> (last visited on March 22, 2022).

The offences under both the ordinance and the Act are cognisable, non-bailable, and subject to a trial in the court of sessions.

The Act, popularly termed as the “Love Jihad Law”, has been the subject of a lot of controversy since its enactment. The primary objections against the said law have been that it violates the fundamental rights to liberty, personal autonomy and freedom of individuals with the state entering the realm of personal laws. The statute ultimately undermines the agency of Hindu women who, it would seem from the text of the law, are not equipped to make choices about who they wish to marry or the religion they wish to embrace. Moreover, religious conversion being a purely private matter, prior permission of the state is an unwarranted invasion of one’s privacy. Many claim that the “vigorous implementation” of the Act and frequent usage of the term “love jihad” will further marginalise the Muslim community, thereby further widening the communal divide.³⁶

Within a month of the ordinance being introduced, 14 cases were registered and 51 arrests were made. Out of these, there were only two cases where the complainant was the concerned woman herself.³⁷ The ordinance was immediately challenged before the Allahabad high court and the supreme court.³⁸

Public Service/Recruitment

The Uttar Pradesh Public Service (Reservation for Economically Weaker Sections) Act, 2020 aims to provide for 10 percent reservation in public services and posts in favour of persons belonging to the economically weaker sections (EWSs). This is in addition to the existing scheme of reservations for the scheduled castes (SCs), the scheduled tribes (STs) ‘and the socially and educationally backward classes’ in the state. It was passed in accordance with the provisions introduced by the Constitution (One Hundred and Third Amendment) Act, 2019 that enables the state to provide the benefits of reservation on a preferential basis to the EWSs in civil posts and services in government jobs and admission in educational institutions. The Act goes one step ahead and entitles only the candidates of the state to these reservations—i.e., the candidates from outside the state of Uttar Pradesh are not eligible for benefits of reservation as per the proviso clause added to section 3 (1) of the Act.

The definition of the term ‘EWS’ under the Act is based on the Office Memorandum F.No. 36039/1/2019 Estt.(Res), dated January 19, 2019 of the Department of Personnel and Training, Ministry of Personnel and Public Grievance and Pension, Government of India.³⁹ The definition covers persons whose family has a gross annual income below 8 lakh rupees and are not covered under the scheme of reservation for SCs, STs and other backward castes.⁴⁰ The income shall also include earnings from all sources,

36. Maulshree Seth, “Explained: Uttar Pradesh’s ‘love jihad’ law, and why it could be implemented vigorously”, *The Indian Express*, Dec. 5, 2020, available at: <https://indianexpress.com/article/explained/explained-uttar-pradeshs-love-jihad-law-and-why-it-could-be-implemented-vigorously-7066156> (last visited on March 22, 2022).

37. Manish Sahu, “1 month of UP ‘love jihad’ law: 14 cases, 49 in jail, woman ‘victim’ complainant in only two”, *The Indian Express*, Jan. 9, 2021, available at: <https://indianexpress.com/article/india/love-jihad-law-up-police-7124001/> (last visited on March 22, 2022).

38. PTI, “Challenge to law on religious conversions: SC refuses to transfer to itself cases from Allahabad HC”, *The Economic Times*, Jan. 25, 2021, available at: <https://economictimes.indiatimes.com/news/politics-and-nation/challenge-to-law-on-religious-conversions-sc-refuses-to-transfer-to-itself-cases-from-allahabad-hc/articleshow/80448222.cms?from=mdr> (last visited on March 22, 2022).

39. Ministry of Personnel, Public Grievances & Pensions Department of Personnel & Training, Office Memorandum dated Jan. 31 2019, available at: <https://dopt.gov.in/sites/default/files/ewsf28ft.PDF> (last visited on March 22, 2022).

40. The eight-lakh limit was upheld by the supreme court for the NEET admissions for the year 2021.

including salary, agriculture, business, profession, etc. for the financial year prior to the year of application. Moreover, both the memorandum and the Schedule to the Act clarify certain conditions that should be met for a person to be considered a part of the EWS. A family that owns or possesses any of the following assets shall be excluded from being identified as EWS, irrespective of the family income: (i) five acres or above of agricultural land; (ii) a residential flat of 1000 sq. ft. and above; (iii) a residential plot of 100 sq. yards and above in notified municipalities; or (iv) a residential plot of 200 sq. yards and above in areas other than the notified municipalities.

While applying the land or property holding test to determine EWS status, the property held by a “family” in different locations or different places/cities would be clubbed together. Further, the term “family” will include the person who seeks the benefit of reservation, their parents, their siblings below the age of 18 years, their spouse, and also children below the age of 18 years. If a person belonging to the EWS of citizens gets selected on the basis of merit in an open competition with unreserved candidates, they shall not be adjusted against the vacancies reserved for such category. Where, in any particular recruitment year, a vacancy for EWS cannot be filled up due to non-availability of a suitable candidate belonging to this category, such vacancies shall not be carried forward to the next recruitment year as backlog and the said vacancy shall be filled by eligible candidates of the unreserved category.

Salaries and Allowances

State legislators, in most Indian states, determine their salary and allowances by adopting legislation in their individual state legislatures. Uttar Pradesh lowered the emoluments of its members of the legislative assembly (MLAs), members of the legislative council (MLCs), ministers, speaker, and whips in April 2020. This was done in response to the COVID-19 outbreak so that the state government could use the money for relief work.

The Uttar Pradesh Ministers (Salaries, Allowances and Miscellaneous Provisions) (Amendment) Act, 2020 amended the Uttar Pradesh Ministers (Salaries, Allowances and Miscellaneous Provisions) Act, 1981 to make the chief minister, every minister, minister of state (independent charge) and minister of state entitled to only 70 percent of their monthly salaries, constituency allowances, and secretarial allowances for the period from April 2020 to March 2021. This was done to generate additional financial resources to meet the economic burden caused by the COVID-19 pandemic.

Moreover, the Act also removed sub-section (3) of section 4 of the 1981 Act, which allowed for a government residence to be allotted to a former chief minister of Uttar Pradesh at their request, for their life, on payment of such rent as may be determined from time to time, by the Estate Department of the state government. This was done in accordance with the 2018 supreme court decision in *Lok Parahari through its General Secretary v. The State of Uttar Pradesh and others*.⁴¹ The apex court had struck down the provision as it was violative of Article 14 of the Indian Constitution. It held that “Section 4(3) of the 1981 Act would have the effect of creating a separate class of citizens for conferment of benefits by way of distribution of public property on the basis of the previous public office held by them.” The section was found to be arbitrary and discriminatory, violating the equality clause.

Similarly, the Uttar Pradesh State Legislature (Members Amendment and Pension) (Amendment) Act, 2020 also cut the salaries and allowances of members of the state legislature. It amended sections 3,

41. *Lok Parahari through its General Secretary v. The State of Uttar Pradesh and others*, (2018) 6 SCC 1.

4, and 15-A of the Uttar Pradesh State Legislature (Members' Emoluments and Pension) Act, 1980, which dealt with salaries, constituency allowances, and secretarial allowances of all members of the state assembly or council. For the period from April 2020 to March 2021, each provision was changed to incorporate a proviso that decreased the members' benefits to only 70 percent of what they were entitled to. The funds raised by the aforementioned adjustments were predicted to contribute around Rs. 17.50 crores to the state, which has over 500 parliamentarians.

Trade, Commerce and Industries

During the COVID-19 pandemic, many states passed laws to facilitate ease of doing business and to remove operational restrictions to aid revival of industries.⁴²

The Uttar Pradesh Micro, Small and Medium Enterprises (Facilitation of Establishment and Operation) Act, 2020 was passed to provide exemptions from certain approvals and inspections required to set up and run micro, small and medium enterprises, for the initial years of establishment and operation. The new Act established two committees at the state and district levels. It further created nodal agencies at both the state and district levels to facilitate investments and establishment of enterprises in the state. Every entrepreneur person had to file a 'Declaration of Intent' to the District Level Nodal Agency (DLNA) to get an acknowledgement certificate, which had to be issued within 72 hours of receiving the application. On the basis of this acknowledgement, applicants would be able to establish their unit. The certificate would be valid for 1000 days from the day it was issued. In other words, an investor would have 1000 days to get the necessary clearances after the first go-ahead. Moreover, units producing products like tobacco, gutka, pan masala, alcohol, carbonated drinks, firecrackers, plastic bags of 40 microns or less or as stipulated by the government from time to time, or any other item banned by the government, and those units which were identified by the UP-Pollution Control Board as falling under the red category would not be covered by the Act.

Another Act which was passed in 2020 was the Uttar Pradesh Industrial Area Development (Amendment) Act, 2020 to amend the Uttar Pradesh Industrial Development Act, 1976. The ordinance and the pursuant Amendment Act added a proviso to section 7[7] of the Act which allows for the cancellation of the lease deed if any land allotted was not utilised for the purpose for which it was allotted within the period of five years from the date of possession or within the period fixed for such utilisation in the conditions of allotment, whichever was longer. In cases where such period has already lapsed before the commencement of the Act, the authority will send a notification to the allottee to utilise the land for the authorised purpose within a period of one year. If the allottee fails to do so, the lease will automatically stand cancelled.

Developers have raised concerns regarding this provision since they may lose their accrued rights in properties. Further, it may have far-reaching consequences not only for the developers but also for banks and similar financial institutions who have granted financial assistance to these developers and taken the land parcels as collateral or security.⁴³

42. These include Himachal Pradesh, Karnataka and Punjab.

43. Abhimanyu Chopra and Parag Maini, "The Story of an Urgent Proviso in the Pandemic Driven World!", *AZB Partners*, June 23, 2021, available at: <https://www.azbpartners.com/bank/the-story-of-an-urgent-proviso-in-the-pandemic-driven-world/> (last visited on March 22, 2022).

Labour Laws

The Uttar Pradesh government issued an order, on May 8, 2020, relaxing the provisions relating to working hours, overtime, rest intervals, etc. as stipulated in sections 51, 54, 56, and 59 of the Factories Act, 1948 retrospectively for a period of three months from April 20, 2020 to July 19, 2020.⁴⁴ As per the notification, the working hours were increased from eight to twelve hours per day, with a maximum of 72 hours per week. The maximum period of continuous working hours was fixed at six hours with a minimum break of half an hour. The order further made wages proportional to the existing wages. For example, if wages for eight hours was Rs. 80, then the proportionate wages for 12 hours would be Rs. 120. The need to boost the economy and pull it out of the crisis created by the pandemic was the justification provided for the new rules. The order was challenged by the Uttar Pradesh Worker's Front in the Allahabad high court, which issued a notice to the government. Subsequently, on May 15, 2020, the government withdrew the impugned order.⁴⁵

The Uttar Pradesh government then came up with an ordinance exempting factories and other manufacturing establishments in the state, for a period of three years, from the obligations contained under a majority of key labour laws.⁴⁶ With a few exceptions, the ordinance suspended almost all the labour laws. The exceptions included the provisions relating to safety and security of workers under the Factories Act, 1948 and the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996; the provisions relating to the employment of children and women under the Maternity Benefit Act, 1961 and the Child Labour Act, 1986; the Bonded Labour System (Abolition) Act, 1976; the timely payment of wages to employees under the section 5 of the Payment of Wages Act, 1936; and the Employees Compensation Act, 1923 in cases of death and disability arising out of the course of employment.

The changes have met with mixed responses from different stakeholders in the sector. While people supporting the changes claim that this will provide flexibility to industries, others have raised concerns over the possible exploitation and violation of workers' rights.⁴⁷ It must be pointed out that the ordinance is an expression of intent by the state as central laws cannot be amended without presidential assent.

Conclusion

Due to the ongoing COVID-19 pandemic and the associated lockdowns, Uttar Pradesh, like all other states, engaged in limited legislative activity in 2020. Most of the bills were first promulgated as ordinances. Functioning for just 13 days, the state passed 31 Acts during the first year of the pandemic. It is noteworthy that 32 out of the 37 bills proposed were passed in the Assembly on the same day as their introduction. This implies that most of the bills were passed during the pandemic period without

44. Notification No. 13/2020/502/36-03-2020-30(Sa.)/2020TC, Labour Department, Government of UP, dated May 8, 2020.

45. Akshita Saxena, "As UP Govt Withdraws Dilution of Labour law: Allahabad HC disposes PIL as 'Infructuous'", *LiveLaw*, May 19, 2020, available at: <https://www.livelaw.in/news-updates/allahabad-hc-disposes-plea-challenging-relaxation-of-labour-laws-on-working-hours-overtime-etc-157014> (last visited on March 22, 2022).

46. Draft of the Uttar Pradesh Temporary Exemption from Certain Labour Laws Ordinance, 2020, available at: https://www.livelaw.in/pdf_upload/pdf_upload-374550.pdf (last visited on March 22, 2022).

47. Apoorva Mandhani, "UP suspends labour laws: What stays, what goes and why 'it is a step in right direction'", *The Print*, May 8, 2020, available at: <https://theprint.in/india/governance/up-suspends-labour-laws-what-stays-what-goes-and-why-it-is-a-step-in-right-direction/417186/> (last visited on March 22, 2022).

any detailed scrutiny. These include several key legislations, including the Uttar Pradesh Industrial Area Development (Amendment) Act, 2020 and the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2020, which have raised some valid concerns among the citizens of the state regarding the violations of their rights.

Further, detailed observations into the functioning of the seventeenth legislative assembly (2017-2022) reveals that as much as 45 percent of the bills were passed on the same day as their introduction during its tenure. While Assembly procedures provide that a bill upon its introduction may be sent to a select committee for detailed examination, none of the bills during the term of this Assembly were referred to any such committee.⁴⁸ This implies that the state lacks a robust committee system, with a substantial number of bills even on important subjects being passed without detailed reflection. This is in contrast with states like Kerala,⁴⁹ Maharashtra⁵⁰ and Karnataka,⁵¹ which constituted several select committees to scrutinise important subjects/bills.

A thorough analysis of all the bills/ordinances that were proposed by the Uttar Pradesh legislative assembly in 2020 shows that most of the laws passed dealt with either routine changes in the procedural working of different sectors of the state or with mitigating the impact of the pandemic. However, the year also saw the introduction of several legislations that were highly controversial. Some seemed outrightly communal and contrary to the mandate of the Constitution. The Uttar Pradesh Recovery of Damage to Public and Private Property Act, 2020 and publication of personal information of anti-CAA protestors can be seen as one such example. Similarly, the laws related to public security and religious conversions were also problematic.

This controversial law-making seems driven by an aggressive majoritarian agenda informed by the fact that the political party in power in Uttar Pradesh also governs at the centre. Also, it appears that Uttar Pradesh enjoys greater legislative leverage because it sends the largest number of members to the Lok Sabha.

48. *Supra* note 4.

49. Kerala has a total of 14 subject committees. Kerala Legislative Assembly, Committees, *available at*: <http://www.niyamasabha.org/codes/comm.htm> (last visited on Jan. 21, 2022).

50. For detailed examination of the Shakti Criminal Laws (Maharashtra Amendment) Bill, 2020, the Maharashtra Assembly referred the bill to a Joint Select Committee (of both Houses) in December 2020.

51. The Karnataka Assembly referred the Bruhat Bengaluru Mahanagara Palike (BBMP) Bill, 2020 to a Joint Select Committee (of both Houses) for further examination in March 2020.