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LAKSHADWEEP

NANDINI BISWAS*

Introduction

The Union Territory (hereinafter UT) of Lakshadweep is an archipelago of 36 islands off the Kerala Coast, with a total area of 32 square km, 12 atolls, three reefs, 10 inhabited islands while 26 are uninhabited. The population as per 2011 census is approx. 64,473 of which about 96.58% of the inhabitants follow Islam and average literacy rate is 91.85%. Malayalam is spoken on all the islands except Minicoy where people speak the indigenous language Mahl.

Owing to its unique historical and cultural standing, Lakshadweep was accorded UT status in 1956. The territory is directly governed by the Union Government under Part VIII of Constitution and has no legislature of its own. Article 239 and 240 empower the President to administer the territory through an appointed Administrator. To ensure due recognition to the cultural heritage of the tribal population, one scheduled tribe member represents the entire UT in the Lok Sabha.

The data for this survey has been collected from the UT administration and the Official Gazette. Occasionally, information on some circulars and case law has also been obtained from private legal websites.

Qualitative Survey

Tenancy and Occupancy

The Lakshadweep Tenancy Regulation 2023 approved by the Union Cabinet and promulgated by the President seeks to create a regulatory system to protect the interests of landlords & tenants and provide transparency, speedy adjudication mechanism for

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settlement of disputes.¹ The regulation mirrors the Model Tenancy Act 2021 as a proposed framework for the states and union territories to pass their own tenancy laws. The Model Law enables contract enforcement and rent control ensuring affordable housing. Though the regulation provides clarity on rental housing, there are concerns for informational self-determination and privacy since the registration of rental agreements requires Aadhaar numbers to be made public on the Rent Authority's website.

The Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy (Amendment) Regulation, 2023² omitted Section 15A, originally inserted in the 2020 regulation³ to amend the principal regulation of 1965. The principal regulation aims to regulate the settlement and assessment of land revenue, rights and liabilities of landholders and other matters relating to land in UT. Pandaram lands as defined under Section 2(s) read with section 14 of the 1965 regulation were held by the government and empowered the government authorities to allot to any person for the purpose of agriculture, construction of dwelling houses, industrial or public utility. Section 15A permitted transfer of Pandaram lands by way of sale or gift to Scheduled Tribes Islanders, and also granted occupancy rights to them.

Economic and Public Benefits

The Central Government, exercising its powers under Section 67 of the Code of Wages 2019, issued the draft Code on Wages (Central) Rules 2020,⁴ although they are yet to come into force. The 2019 Code aims to consolidate and simplify the central labour legislations for the stakeholders from both formal and informal sectors linking economic with social policies. The Code will bring significant changes in the labor sector, some of it could lead to interpretational ambiguity. While the Code of Wages, Industrial Relations Code and the Occupational Safety Health and Working Conditions Code draws out the difference between employee and worker in the definitional clause, many of their provisions lack clarity

¹ *The Lakshadweep Tenancy Regulation, 2023* (No. 4 of 2023), Gazette of India, Extraordinary, Part II, Section 1, No. 40 (24 November 2023).

² *The Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy (Amendment) Regulation, 2023* (No. 1 of 2023), Gazette of India, Extraordinary, Part II, Section 1, No. 37 (25 October 2023), available at <https://egazette.gov.in/WriteReadData/2023/249686.pdf>. Last visited January 1, 2025.

³ *The Laccadive, Minicoy and Amindivi Islands Land Revenue and Tenancy (Amendment) Regulation, 2020* (No. 6 of 2020), Gazette of India, Extraordinary, Part II — Section 1, No. 11 (18 March 2020), available at [https://thc.nic.in/Central%20Governmental%20Regulations/Laccadive,%20Minicoy%20and%20Amindivi%20Islands%20Land%20Revenue%20and%20Tenancy%20\(Amendment\)%20Regulation,%202020.pdf](https://thc.nic.in/Central%20Governmental%20Regulations/Laccadive,%20Minicoy%20and%20Amindivi%20Islands%20Land%20Revenue%20and%20Tenancy%20(Amendment)%20Regulation,%202020.pdf). Last visited January 1, 2024

⁴ *The Code on Wages (Central) Rules, 2020*, Gazette of India, Extraordinary, Part II, Section 3(i), No. 329 (7 July 2020), available at https://labour.gov.in/sites/default/files/gazette_notification.pdf#page=1.00&gsr=0 (Last visited on January 25, 2024).

on the conceivable distinction between the two terms as they have been often used interchangeably.⁵

On the other hand, the Social Security Code does not provide any definition of worker but seeks differentiation between various types of workers as unorganised workers, home based worker, gig worker, self-employed worker, platform worker, and in the proviso dealing with the calculation of the wages,⁶ mentions wages paid by the employer to an employee, having no mention of the workers. This also comes as a recommendation by the Standing Committee on Social Security Code⁷ that the Code should have a model framework on the mandatory minimum entitlement to all the workers across all the states. This could be achieved through a compact delivery system run by a unified registration platform for seamless accessibility of social security benefits. .in the Through a notification⁸ issued on 6 January 2023 the draft Code was notified in the UT. The notification of the draft invited objections within 45 days from the date of publication of the said notification. Lakshadweep has not yet issued its draft rules pertaining to any of the new Labour Codes.⁹

In exercise of powers conferred by Section 139(1) of Lakshadweep Co-operative Societies Regulation 2022,¹⁰ the Administrator introduced the Lakshadweep Co-operative Societies Rules 2023¹¹ to 'regulate registration, incorporation and management of co-operative societies in the UT' giving effect to Article 243ZS in Part IX of Constitution of India. It also aims at restructuring the present economic system by promoting public benefit through the principles of shareholding, autonomy and coordination. The present regulation repeals the Laccadive, Minicoy and Amindivi Islands Cooperative Societies Regulation 1960 which was introduced to regulate and 'facilitate the formation and working of co-operative societies for the promotion of thrift, self-help and mutual aid among the agriculturalists and other persons', in the UT. There have been substantial changes in the present regulation. For

⁵ Section 24, Welfare Provisions, Occupation, Safety and Health Code 2020, Chapter IV

⁶ Section 2(88) of Social Security Code

⁷ The Code of Social Security 2019, Standing Committee on Labour, Ministry of Labour and Employment, 9th Report, July 2020.

⁸ Lakshadweep Administration, F.No.13/1/2022-23-LGP (January 1 2023) republished by Ministry of Labour and Employment, F.No.8/9/2022-LE&T (July 7 2023).

⁹ Zia Haq, Implementation of 4 labour codes stalled, HINDUSTAN TIMES, 8 May 2023

¹⁰ *The Lakshadweep Co-operative Societies Regulation, 2022* (No. 4 of 2022), Gazette of India, Extraordinary, Part II, Section 1, No. 23 (19 September 2022), available at <https://thc.nic.in/Central%20Governmental%20Regulations/Lakshadweep%20Co%20operative%20Societies%20Regulation%202022.pdf> (Last visited on January 25, 2024).

¹¹ *Lakshadweep Cooperative Societies Rules, 2023* (F. No. 41/4/2022-Coop dated 4 November 2023), Lakshadweep Gazette, Vol. LIX No. 34 (8 November 2023), available at <https://cdn.s3waas.gov.in/s358238e9ae2dd305d79c2ebc8c1883422/uploads/2023/11/2023111723.pdf> (Last visited on January 25, 2024).

example, societies can be exempted from particular conditions of registration.¹² prior approval of the Administrator to enter into collaboration with any undertaking to carry industrial investment, financial aid and management expertise with the condition they are in line with the cooperative character and public interest,¹³ increase in the powers of Registrar to direct amalgamation and reorganisation of societies in the public interest or in the interest of cooperative movement, or for the purpose of securing proper management of any society,¹⁴ and even cancellation order against the registration of society,¹⁵ deregister due to misrepresentation.¹⁶ The Administrator has also appointed the Registrar of Cooperative Societies, in exercise of the powers conferred under Societies Registration Act '1860'¹⁷ It needs to be noted that the Administrator has preferred to refer to their powers under a pre-independence statute in making the appointment and no mention is made of the recently notified Lakshadweep Cooperative Societies Regulation 2022.

Decentralised Governance and UT Constituency

Lakshadweep Panchayat Regulations (hereinafter LPR) 2022 confer immense powers on the Administrator. The 2022 regulations in supersession of LPR 1994 are effective from 26 September 2022. According to LPR 1994, a village (Dweep) panchayat shall be constituted for each of the ten islands and a district panchayat for the UT determined as per the distribution of population and seats allocated through a direct election.¹⁸ With the promulgation of LPR 2022, multiple notifications were issued.¹⁹ These notifications declared 18 new panchayat areas in place of the 10 village (Dweep) panchayats. The notifications also provided for the delimitation of wards on the basis of island's data in the 2011 census. The census data was relied upon even when Rule 3 of Lakshadweep Panchayat (Election Procedure) Rules 2022 required the population data of the panchayat area to be the basis of constituting a gram panchayat. The LPR 2022 defines 'Panchayat Area'²⁰ as a territorial area of Gram Panchayat declared by the Administrator under sub-section (1) of section 3.²¹

¹² Section 7 of Lakshadweep Cooperative Societies Regulation 2022

¹³ Section 24 of the abovementioned Regulation

¹⁴ Section 8 of the abovementioned Regulation

¹⁵ Section 21 of the abovementioned Regulation

¹⁶ Section 22 of the abovementioned Regulation

¹⁷ Lakshadweep Administration, Secretariat Service Section F.No. 24/01/2012- Services (1)/1858 (4 May 2023), The operative statute is of 1860 but the notification has incorrectly printed it as 1869.

¹⁸ First Schedule read with Section 8(1) of LPR 1994.

¹⁹ Lakshadweep Administration, Department of Panchayats, No. 9/4/2022-DOP(PE) (1) (16 November 2022)

²⁰ Section 2(t) of LPR 2022

²¹ The Administrator shall, after making such inquiry as may be necessary, by notification, declare a local area, comprising of a village or a group of villages as any part or parts thereof or a combination of any two or

LPR 1994 defined the same to mean the territorial area of the respective island which is included in the first schedule of the Act. The authorities contended that the modification is within the scope of Article 243L of Constitution of India. Under the said Article, the Administrator is entitled to make exceptions and modifications provided the president has directed application of this modification by public notification of LPR 2022.

A writ petition was filed challenging the modification of the ward delimitation. The Court, referring to the issued notifications, held that the delimitation of the Gram Panchayat—undertaken without any population data for the territorial area and without issuing a prior notification—is ultra vires to Part IX of the Constitution of India and Sections 2(zj), 8, and 12 of the LPR, 2022.²² The panchayat elections had to be completed before 18 February 2022, but this could not happen because the delimitation process was delayed. Consequently, as permitted by sub-sections (3) & (4) of section 63 of LPR 2022²³ the Administrator citing ‘unforeseen circumstances’ postponed the conduct of the elections.

Lakshadweep District Panchayat (Procedure for Consultation with the President and Vice President) Rules 2023 was floated for pre-legislative consultation for 30 days until 16 June 2023 and upon receiving no objections, have been notified and are in effect from 23 August 2023.²⁴ The Rules specify the procedure by which the Administrator may consult with the President and Vice President of the District Panchayat on any matter specified in the fourth schedule of the LPR 2022. The consultation shall be sought in writing and the president and vice president would need to respond within the time specified by the Administrator. If the panchayat functionaries require more time to respond, they would need to make a request to that effect to the Administrator. Even as the language of consultation is employed, the procedure provided is more commandeering than consultative.

In exercise of the powers conferred under section 130 of LPR 2022, the Administrator has notified Lakshadweep Panchayats (Taxation and Appeal) Rules 2023,²⁵ Lakshadweep Panchayats Business Rules 2023²⁶ and Lakshadweep Panchayat (Services) Rules 2023,²⁷ Panchayat (grant in aid) Rules 2023,²⁸ whereas pre-consultation for Lakshadweep

more of them to be Panchayat area, for the purposes of this Regulation and shall also specify its headquarters.

²² A.P. Nazeer vs Union Territory of Lakshadweep & Ors (2022) W.P.(C) No. 40183

²³ Lakshadweep Administration, Department of Panchayat, F.No. 9/4/2022-DOP(PE) (30 December 2022)

²⁴ Lakshadweep Administration, Department of Panchayat, F.No. 2/9/2023-DOP (10 August 2023)

²⁵ Lakshadweep Administration, Department of Panchayat, F. No. 2/3/2023-DOP (25 September 2023)

²⁶ Lakshadweep Administration, Department of Panchayat, F.No.2/4/2023-DOP (27 September 2023)

²⁷ Lakshadweep Administration, Department of Panchayat, F.No. 2/5/2023- DOP (19 October 2023)

²⁸ Lakshadweep Administration, Department of Panchayat, F.No. 2/7/2023-Dop (19 October 2023)

Panchayat Servants (Punishment and Appeal) Rules 2023²⁹ and Lakshadweep Panchayat (Finance and Accounts) Rules 2023³⁰ was carried out in June 2023 .

Cultural and Religious Co-optation

The renaming of the public spaces structures and institutions has been a strategic step taken by many a state to assert the superiority of a particular culture or people. The Directorate of Education decided to replace the names of Government Bi Umma Memorial Junior Basic School and Government Dr. K.K. Mohammed Koya Senior Secondary School in Kalpeni Island with Subhash Chandra Bose and Sardar Patel respectively.³¹ Another instance of naming the gram panchayat headquarters has been under Section 3(2) of LPR 2022, power exercised by the Administrator for naming one Gram Panchayat Lal Bahadur Shastri and the other Bhagat Singh.

Furthermore, an order dated 12 December 2023³² with a three-language policy (English, Malayalam and Hindi) was issued by the Director of Education to transform the syllabus from state education (SCERT), which was in Malayalam medium to CBSE English medium 'with the aim of elevating the standards of education and aligning with the dynamic education landscape' for academic year 2024-2025. This ended the Kerala based educational system (Malayalam and English) being followed in the UT for more than 50 years . This decision was not only taken without consultation with the stakeholders but also sidelined the socio-cultural objectives of the Right to Education Act. The Directorate of Education issued instructions requiring strict adherence of the rules relating to school uniform in order to ensure "uniformity, unity, spirit of brotherhood" The instruction warned that non-compliance with the order will be viewed seriously. The uniform described in the circular does not make mention of a hijab, even though it is the religio-cultural preference of many students.³³

The UT also witnessed multiple administrative decisions with regard to cattle regulation along with the draft Animal Preservation Regulation 2021. The latter regulates the preservation of animals classified as bulls, cows, calves suitable for milch, breeding or agricultural purposes. The regulation has not yet been notified and formally published in the official gazette. The 'notional' manner in which the pre-legislative scrutiny of these draft

²⁹ Lakshadweep Administration, Department of Panchayat, F.No. 2/8/2023-DOP (15 May 2023)

³⁰ Lakshadweep Administration, F.No. 2/6/2023-DOP (16 May 2023)

³¹ Lakshadweep Administration, Directorate of Education, F.No. 6/3/2019-Edn/Estt Part (31 January 2023)

³² Order not found in official website. PTI, Lakshadweep education department announces switch to CBSE English Medium for all Schools, TIMES OF INDIA, 13 December 2023

³³ New uniform pattern in Lakshadweep schools: Congress warns of intense protest, THE ECONOMIC TIMES, 12 August 2023.

regulations was conducted has been challenged through a writ petition before the High Court. The petition argues that the short deadline and lack of proactive or sufficient publicity deprived affected stakeholders of a real opportunity to participate, thereby violating the requirement of meaningful public disclosure for those directly impacted by the draft regulations.³⁴ Another petition³⁵ was filed challenging an order issued by the Director, Department of Animal Husbandry on closing down of all the dairy farms (Bulls, Calves, Ducks) run by the department as well as removal of meat in the mid-day meal in schools (hereinafter MDMS).³⁶ This violates the cultural ethos, food habits of the community and the petitioner prayed for the writ of mandamus on Lakshadweep Animal Prevention Regulation since they were introduced without publishing in local language such as Malayalam and Mahal, infringing Constitutional rights guaranteed under article 19 and 300A of the Indian Constitution. The Court stayed the Administration's orders, noting reasons such as budgetary allocations for the MDMS and the non-acceptance of submissions regarding the discontinuation of dairy farms. However, it did not address the petitioner's arguments concerning the lack of public consultation in the local language or the draft Lakshadweep Animal Prevention Regulation. When the matter was taken to the Supreme Court in 2023, it stayed the High Court order stating that "it is not within the court's domain to decide as to what would be the choice of food for children of a particular region... the court will have to accept the administrative decision in this regard unless some outstanding arbitrariness is pointed out."³⁷

Further, an order prohibited all activities related to the unscientific handling of cattle and unscientific slaughter of cattle, improper disposal of leftover meat in the open, and slaughter of cattle by unlicensed establishments in the UT of Lakshadweep.³⁸

Land Development and Tourism

The draft Lakshadweep Development Authority Regulation 2021 ("LDAR 2021") proposed the creation of a Lakshadweep Development Authority. It also provided for the establishment of townships, land acquisition, alterations, transfer of land. and. In view of the ecological fragility of the archipelago, the legality of the draft regulation has been

³⁴ Rawther Federation vs. UTL and Ors., 8 June 2021, W.P. (c). No. 11950/2021

³⁵ Ajmal Ahmed vs. UOI, 22 June 2021, W.P.(C) No. 12508/2021

³⁶ Minutes of UT Steering cum Monitoring Committee Meeting and District Task Force on Mid Day Meal Programme dated 27 January 2021

³⁷ Ajmal Ahmed vs UOI, SPL (civil) No. 5404/2023

³⁸ Lakshadweep Administration, Office of the District Collector & District Magistrate, F.No. 2/1/2022- Dist. Col (7 August 2023)

challenged in violation of Articles 15, 16, 19 and 21 of the Constitution.³⁹ The Court, while finding the petitioner's prayers premature, declined to stay the implementation of the Regulation. It is to be noted that the pre-legislative consultation notice dated 28 April 2021 for LDAR 2021 was for the period of 21 days i.e., on or before 19 May 2021.⁴⁰

Also awaiting promulgation is the Draft Lakshadweep Town and Country Planning Regulation 2021 that defines development as 'carrying out of building, engineering, mining, quarrying or other operations in, on, over, land the cutting of a hill or any portion thereof or the making of any material change in any building or land...'⁴¹

Multiple tenders for multi-crore projects for tourism in the UT have been issued⁴² Despite the dangers to ecology inherent in prioritising development, there seems to be pressures to recover from the economic depression caused by the pandemic. This was also expressed by the Ministry of Tourism's proposals for development of tourism in unexplored areas.⁴³ A total of 19,258 sqm land for the construction of Beach Road at Kiltan Island has been acquired for public purpose under the Land Acquisition Act 2013 but the official declaration made after public consultation, does not include the final Social Impact Assessment report.⁴⁴ This land acquired is under the Union government's Smart City project under the Beach Front Development and Corridor Beautification and Fishermen Relocation Cum Entrepreneurship Developmental Scheme.⁴⁵

A public notice inviting consultation on the draft Lakshadweep Excise Regulation, 2022—open until 5 September 2023—also remains pending. The Regulation proposes to lift the liquor prohibition operative in the island since 1979, and allow the manufacture, sale, and consumption of liquor across the islands for both tourists and residents.⁴⁶

Public Welfare and Social Schemes

The Department of Animal Husbandry and Agriculture had notified schemes for financial assistance for welfare measures through Aadhaar identity to obtain government delivery of services and benefits/subsidies under Section 7 of Aadhaar (Targeted delivery of Financial

³⁹ K.P. Noushad Ali vs UTL& Ors, 17 June 2021, W.P.(c) No. 11519/2021

⁴⁰ Lok Sabha, Request for Proposals, Process for development of Minicoy Island, May 2022

⁴¹ There is no notification for public consultation on the official website separately from LDAR.

⁴² Lakshadweep Administration, Department of Tourism, F.No. 109/58/2018-SPORT(Part) (31 July 2021)

⁴³ Ministry of Tourism, Proposals received for development of tourism in unexplored areas dated 24 July 2023.

⁴⁴ Lakshadweep Administration, Department of Revenue, F.No. 34/17/2019-LR/1205 (04 December 2023)

⁴⁵ Official Website of Kavaratti Smart City, Smart City Mission project details, accessed at https://kscl.utl.gov.in/pages/project_details/all/smart-city-mission/all/4

⁴⁶ Lakshadweep Administration, Office of Collectorate, F.No. A.14/90/2022-COL (03 August 2023)

and other subsidies, Benefits and Services) Act 2016⁴⁷. The Department of Education had published its notification⁴⁸ for availing the benefits under the scheme and mandates the registration and bio-metric authentication of the beneficiary enrolled using the facilities located in respective Block or Taluka. In the 2018 judgement on Aadhaar card⁴⁹, the Apex Court clarified on the inclusion of children between ages 5-15 years to avail the benefits under section 7 & 8 of the 2016 Act, wherein it was upheld that parental/guardian consent was mandatory and they are entitled to opt out attaining majority. Under the MNREG Act 2005, the wage rate payable has been fixed at Rs. 304/- per day without Dearness Allowance in respect of UT to come into effect from 01 April 2023.⁵⁰ The Department of Ayush and Health services declared the functioning of 20 bed facilities at Ayush Deen Dayal Upadhyay Ayush Hospital.⁵¹

In a protest dated 27 March 2023, the protesters representing the Lakshadweep Disabled' Welfare Association (LDWA) demanded the implementation of Rights of Persons with Disabilities (RPWD) Act 2016 by providing for reservation in permanent government jobs: ensure availability of rehabilitation workers and address the inaccessibility in passenger ships.⁵² On 12 July 2023, a bunch of copies from the year 2013 on welfare schemes to Divyang (state pension scheme, special job to PwDs, marriage assistance to PwD, financial assistance for medical claim under Disabilities Act 2016 were uploaded on the official website.⁵³ But as in this case, uploading existing welfare schemes as a response to the protests may not necessarily solve the problem of implementation of the desired public demands. There is an evident mismatch between what the disability community was demanding and what the government provided.

Conclusion

The Annual Survey of the Union Territory Lakshadweep gives an overview of the exercise of powers by the politically elected Administrator which have been consistently contested

⁴⁷ Lakshadweep Administration, Department of Animal Husbandry, F.No. 22/26/2021-AH(STAT) (18 April 2023), Lakshadweep Administration, Department of Agriculture, F.No. 12/29/2023-Agri (3 February 2023)

⁴⁸ Lakshadweep Administration, Department of Education, No. 20/06/2021-Edn(SC) (01 November 2023)

⁴⁹ Justice K.S. Puttuswamy vs UOI, 26 September 2018, W.P.(Civil) No. 494/2012

⁵⁰ Lakshadweep Administration, Department of Rural Development, Notification F.No. 11/4/2020-DPC/315 (04 May 2023)

⁵¹ Department of Ayush and Health Services, F.No. 4-10 Ayush/2016 (03 February 2023)

⁵² Salahuddin, Lakshadweep: Disability rights Activists hold another protest as accessibility issues continue, THE WIRE, 28 May 2023

⁵³ Welfare Schemes to Divyang under UT Lakshadweep, implementation of RPWD ACT 2016 accessed at <https://lakshadweep.gov.in/notice/welfare-schemes-to-divyang-under-ut-of-lakshadweep-implementation-of-rpwdact-2016/> (No notification number has been provided)

on the grounds of insufficient involvement of public in the process of decision making, inadequate publicity of the draft laws. There have been several executive orders which have disappointed the legitimate expectations of the people that their cultural heritage, religious sentiments and environmental fragility shall be protected. Majority of the draft regulations and rules have been promulgated against the collective will. The orders and notices are either ambiguous, or they are hidden. Democratic governance in UT will prevail only with the ancient coin of transparency and accountability. With the increasing population and ecologically fragility of the location, it seems desirable to reexamine the viceroy system of governance of the colonial era and create a strong resilient system showcasing good governance.