

# Law Making Process in India

## Executive Summary

The elements of RIA need to be incorporated in the law making process, and therefore, review of the law making process is imperative for the purpose of effectively undertaking RIA. The below paragraphs outline a brief analysis of the general law making process in India. Further, the same is compared with law making procedure adopted under the DRT Act and the SARFAESI Act, on the basis of literature review and stakeholder consultation, to identify any lacunae in the law making procedure of the select legislations vis-à-vis the general law making process in India.

### 1. Legislative Process in India

In India, the law making bodies are Parliament at the central level and Legislative Assemblies and Councils (wherever applicable) at the state level. Parliament consists of two Houses: the Lok Sabha, or “House of the People,” and the Rajya Sabha, or “Council of States.” The process of law making, in relation to Parliament, may be defined as the process by which a legislative proposal brought before it, and then is translated into the law of the land. It can be broadly divided into three stages / phases – Pre-legislative phase, Legislative phase and Post-legislative phase.

Pre-legislative phase comprises identification of need for a new law or an amendment to an existing legislation, drafting of the proposed law, seeking inputs / comments from different ministries and public, revision of the draft bill to incorporate such inputs, and getting the same vetted by the Law Ministry. It is then presented to the Cabinet for approval.<sup>1</sup>

The Government has issued a Pre-legislative Consultation Policy to ensure efficient pre-legislative scrutiny of a legislative proposal, in consultation with the stakeholders. It includes publishing/ placing in public domain<sup>2</sup>:

- the draft legislation or at least the information that may *inter alia* include brief justification for such legislation, essential elements of the proposed legislation, its broad financial implications, and an estimated assessment of the impact of such legislation on environment, fundamental rights, lives and livelihoods of the concerned/affected people, etc;
- an explanatory note explaining key legal provisions of the draft legislation or rules, in a simple language;
- summary of feedback/comments received from the public/other stakeholders.

In addition, the Department/Ministry concerned is also required to include a brief summary of the feedback received from stakeholders (including Government Departments and the public) along with its response in the note for the Cabinet along with the draft legislation. The summary of pre-legislative process is also required to be placed before the Department Related Parliamentary Standing Committee by the Department/Ministry concerned when the proposed legislation is brought to the Parliament and is referred to the Standing Committee.

After the Cabinet approves the Bill, it is introduced in the Parliament. On introduction of the Bill, the Minister of the concerned Department may send notice demonstrating the intention that the Bill may be moved, considered and passed; be referred to the Select Committee of

the House/ Joint Committee of both Houses or for eliciting public opinion. Once the Bill is taken for consideration, perusal must be made on clause-to-clause basis and the same may be accepted, amended or rejected. Subsequently, the House votes on the Bill with amendments, if any. If the Bill is passed in one House, it is then sent to the other House. In case of a deadlock between the two houses or in a case where more than six months lapse in the other house, the President may summon, though is not bound to, a joint session of the two houses which is presided over by the Speaker of the Lok Sabha and the deadlock is resolved by simple majority. Once the Bill is passed by both the Houses, a copy of the Bill is sent to Legislative Department of Ministry of Law and Justice for scrutiny. Post scrutiny by the Ministry of Law and Justice, it is presented to the President for assent. The President has the right to seek information and clarification about the Bill, and may also return it to the Parliament for reconsideration.<sup>3</sup>

After the President gives assent, the Bill is notified as an Act. Subsequently, the Bill is brought into force, and rules and regulations to implement the Act are framed by the concerned ministry. The same are then tabled in Parliament.

## *2. Challenges in relation to legislative process*

The manner in which policy or legislations are drafted is often questioned by both the experts as well as those who practice. The legislative process is itself inherited with numerous challenges / lacunas. Some of them are outlined below:

### *2.1. Deficit of elements of impact assessment in Manual on Parliamentary Procedures in India (Manual)<sup>4</sup> and Pre-legislative Consultation Policy (PLCP)*

As indicated earlier, the law making process in India in general includes certain aspects of impact assessment (IA) such as inviting public comments on the draft legislation, consultation with relevant stakeholders, and study of social and financial costs / benefits.<sup>5</sup> However, it seems that the requirement is often not complied with as it is not mandatory and the process has led to certain ambiguities. While the Manual on Parliamentary Procedures in India (Manual) does not mandate any stakeholder consultation *per se*, but the PLCP requires undertaking stakeholder consultations. Yet neither the Manual nor the PLCP describes the process of conducting these stakeholder consultations and manner in which all interested parties would need to be represented. Lack of availability of information in public domain acted as one of the challenges in determination of quality of public consultation under the legislations under consideration.

### *2.2. Dearth of interconnection between Manual and PLCP*

The Manual is the principle document for ascertaining law making process in India that exhaustively explains the process. However, the PLCP has an over-riding effect over the Manual (to the extent of pre-legislative process) and it is difficult to ascertain the junctures at which provisions under PLCP will be read along with the Manual.

### *2.3. Lack of transparency in inviting and accepting Public Comments*

The Manual and PLCP mandates the concerned department to invite public comments on draft legislations. But, there are no specific provisions that mandate the relevant department concerned for providing rationale as to acceptance or non-acceptance of any

recommendations. A mechanism of feedback to the stakeholders in terms of providing rationale is important to ensure transparency and to also ensure a sense of ownership on part of the stakeholders towards the draft legislations.

#### *2.4. Cabinet note in the Office Memorandum*

Cabinet Note is part of the office memorandum that explains objective behind the draft legislation. However, it is not a public document, making it difficult for the stakeholders to ascertain rationale and objective behind the legislation.

#### *3. Legislative Procedure of the select debt recovery laws (DRT Act / SARFAESI Act)*

On the basis of available literature in public domain and stakeholder consultations, the SARFAESI Act and the DRT Act, seems to be subject to following gaps:

##### *3.1 Deviation from standard procedure of law making*

The Manual mandates that a bill needs to be referred to a related Standing Committee. Deviation from the standard procedure was observed in adoption of DRT Act and Securitisation Act as instead of referring the relevant bills of the concerned legislations to Standing Committee on Finance, the Ordinance route<sup>6</sup> was taken to ensure their passage.<sup>7</sup>

##### *3.2. Non availability of reports*

The Lok Sabha debates refer to formation of several Committees and their reports highlighting the problems faced by the economy, leading to requirement of the legislations. Unfortunately, these reports were not easily available in the public domain. For example, the Committee on Estimates (1998-1999) of the 12<sup>th</sup> Lok Sabha worked on the issue of bad debts and accordingly made certain recommendations in a Report.

In addition, owing to availability of limited information in public domain, it is not clear if the primary legislations were subject to in-depth discussions or with all concerned stakeholders. However, research with respect to amendments of legislations revealed that text of certain amendments was changed after introduction and certain amendments were introduced in Rajya Sabha,<sup>8</sup> and not in Lok Sabha, indicating to the practice of discussion of amendments in Parliament.

**Law Making Process for Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDBFI Act, 1993)**

S.No.	Mandatory Law Making Process <sup>9</sup>	RDBFI Act, 1993	Remarks
<i>Pre Legislative Process</i>			
1.	Legislation to be initiated in the Department to which subject matter of legislation relates.	Pre-legislative and legislative process of the RDBFI Act, 1993 and information relating to subsequent amendment in 1994 is not available.	
2.	<p>Pre-drafting stage shall consist of four phases:</p> <ul style="list-style-type: none"> <li>• Formulation of legislative proposals in consultation with all the interested and authorities concerned essentially from administrative and financial perspective.</li> <li>• Consultation with the Ministry of Law and Justice for advice as to its feasibility from legal and constitutional perspective</li> <li>• Preparation of a self-contained note by the concerned Department in consultation with the Ministry of Law and Justice</li> <li>• Department concerned to send all relevant papers to Ministry of Law and Justice (Legislative Department) with an Office Memorandum indicating the rationale/ justification of the proposed legislation. Office Memorandum must contain: a</li> </ul>	<p align="center"><b>Recovery of Debts Due to banks and Financial Institutions (Amendments) Act, 2000</b></p> <ul style="list-style-type: none"> <li>• The parent Act, passed in 1993 was held to be <i>ultra vires</i> by the Delhi High Court<sup>11</sup>. When the Parent Bill was passed, there were apprehensions in the Lok Sabha that the Bill was defective in many ways. The Bill was nonetheless passed and subsequently was contested in the Delhi High Court through a Writ Petition.</li> <li>• The Central government made an appeal before the Supreme Court.<sup>12</sup> The tribunals were then functioning under the stay order issued by the Apex Court. Nothing was done by the Central Government to pass a law, the defects pointed by High Court remained unattended to and no amendments were moved. The House was taken more or less like a rubber stamp and at any time they can come with an Ordinance and gets it passed. This of course is not considered as a good Parliamentary practice.<sup>13</sup></li> <li>• In the Case of <u>Union of India &amp; Anr v. Delhi High Court Bar Association &amp; Ors</u>, the constitutional validity of the RDBFI was challenged before the Delhi High Court on the ground that the Act is unreasonable and violative of Art 14 of the Constitution of India and</li> </ul>	<ul style="list-style-type: none"> <li>• The manner in which policy or legislations are drafted is often questioned by both the experts of the field as well as those who practice. Intrinsic lacunae in drafting leads to legislations that led to a different meaning altogether from that which was envisioned or intended by the legislatures. Such ambiguity surfaces also in the Manual of Parliamentary Procedures. For instance, Chapter 9 of the Manual states that, “The Department concerned will formulate the legislative proposals in consultation with all the <i>interests and authorities concerned</i>, essentially from administrative and financial points of view.” The phrase “<i>interests and authorities</i>” given in the Manual must have been “interested and authorities” indicating interested parties and authorities involved in the making of such a legislation. The ambiguity in the drafting lead to confusion in the law making procedure. The words in the Manual leads to the confusion as to the nature of “interests” whether non-government and players of the concerned sector/ business also</li> </ul>

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	<p>detail note of legislative proposal; background material; other relevant details; draft Cabinet Note<sup>10</sup>.</p> <p>The administrative Department will not attempt to draft the Bill</p>	<p>therefore is beyond the legislative competence of the parliament. The High Court of Delhi held (1995) that the impugned Act was unconstitutional since it erodes independency of judiciary and was unreasonable, arbitrary and discriminatory in nature hence hit Article 14. The Supreme Court observed that List 1 Entry 45 covers the types of legislation that can be enacted one of which relates to “Banking”. Since banking operations include accepting of loans and deposits and granting of loans and recovery of debts due to bank. The last being an essential function of banks, therefore, the legislature can provide for a mechanism for the same. The term “Banking” also connotes forming legislations regarding all aspects of banking including ancillary or subsidiary matters relating to banking. Hence, setting up Tribunals for recovery of Non-Performing Assets would fall under the ambit of List 1 Entry 45.<sup>14</sup></p> <ul style="list-style-type: none"> <li>• None of the documents such as draft note for the Cabinet, legislative proposal etc. that form the basis of drafting of Bill were found.</li> </ul> <p><b>The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004</b> The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill amended RDBFI.</p> <p><b>The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2011</b> The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011 amended further the RDBFI and SARFAESI Act</p>	<p>are consulted.</p> <ul style="list-style-type: none"> <li>• Documents such as Office memorandum, indicate rationale of the proposed legislation and draft note for Cabinet. Office Memorandum is made as per the format given in the Handbook on Writing Cabinet Notes. The documents together reflect the intent and the objective of the legislature while drafting a particular bill. Therefore, the documents together are intrinsic part to assess the resultant effect of the effectuated legislation. Therefore, the Office Memorandum should have ideally been a public document but in case of RDBFI, despite of the Act being crucial in nature is not made public. This in turn impedes transparency and assessment of the legislation.</li> </ul>
3.	Ministry of Law and Justice will prepare a		The Manual requires assent of Department of

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	draft Bill within 30 days after getting clearance from Department of Legal Affairs on the basis of the material supplied to it by the concerned Department		Legal Affairs (Ministry of Law and Justice) before the Ministry of Law and Justice – Legislative Department starts drafting the Bill. The Manual, however, does not clearly word out as to how many days the Department of Legal Affairs must dedicate on a single Bill. In absence of any prescribed time, the costs on drafting the Bill increases substantially.
4.	If the Bill has more than 25 clauses then include a table showing arrangement of clauses; in case of an amending Bill contain only relevant provision of the Act that needs to be amended		
5.	The Cabinet Note shall states the object, need and scope of the proposed legislation; reflect the views of other Departments (if so required by the procedure laid by the Cabinet Secretariat; explain effect of proposed legislation and include the draft of the proposed Bill in Annexure. Once the Note for the Cabinet is finalised and the draft Bill is accepted after scrutiny by the Department concerned, the Note shall be sent to the Cabinet Secretariat and placed before the Cabinet for its approval.		Note for the Cabinet is an important document that reflects the basic intention behind any Bill. The fact that it is an intrinsic document designates it to be a public document and must be therefore freely available.
6.	After approval of the Cabinet, the concerned Department will examine the decision of the Cabinet to assess whether any changes need to be made in the Bill. If yes, then the relevant papers and the		

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	<p>decision of the Cabinet will be sent back to the Ministry of Law and Justice to make necessary changes in the draft Bill in consultation with the concerned Department. If no changes are needed then, the concerned Department will prepare:</p> <ul style="list-style-type: none"> <li>• Statement of object for the Bill</li> <li>• Notes on clauses to be appended in case the Bill is complex in nature</li> <li>• Financial Memorandum prepared in consultation with the Ministry of Finance, with respect to Bills dealing with expenditure or giving an estimate of recurring or non-recurring expenditure.</li> <li>• Memorandum dealing with any Delegated Legislation explain the ambit of the Bill</li> </ul> <p>All documents need to be perused by Ministry of Law and Justice (Legislative Department) before finalisation.</p>		
7.	<ul style="list-style-type: none"> <li>• Every Department / Ministry shall proactively publish the proposed legislations both on internet and on other means.</li> <li>• Every draft legislation placed in public domain should be accompanied by an explanatory note explaining key provisions</li> <li>• Summary of feedback received</li> </ul>		<ul style="list-style-type: none"> <li>• Though a practice of late, however, neither RDBFI nor its subsequent amendments were subjected to public comments. This should ideally be at place to understand and assess legislations from industry, market and public perspective.</li> <li>• Explanatory note stands as a key document that highlights the objective of the legislation and at the same time focusses on</li> </ul>

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	from public/ stakeholders should be placed on the website of the Department/ Ministry concerned.		the intended practice change aimed through the legislation. <ul style="list-style-type: none"> <li>• Though ideally the Department/ Ministry concerned must reflect the comments accepted by them or incorporated in the legislation. However, in practice this is not followed. The bodies/ Departments/ ministries do not give an explanation as to why certain comment is or is not incorporated within the body of a proposed legislation.</li> </ul>
8.	In addition to placing the legislation in public domain also hold consultation with all stakeholders. However, the degree of participation and mode of consultation may be decided by the Department/Ministry concerned and also may change as per the nature of the subject and potential impact.		
9.	Department / Ministry concerned should publish/place in public domain the draft legislation or information that may include brief justification of such legislations. The essential elements of financial impact, impact on environment, fundamental rights, life and livelihood of the affected people must be assessed. Such information must be kept in public domain for 30 days for purposes of dissemination and awareness.		This step is the essential aspect of RIA. The pre-legislative step states that RIA is intrinsic part of the pre-legislative process and that the impact assessment of the relevant stakeholders is to be done to weigh the cost incurred and the benefits reaped due to enforcement of a proposed legislation.
10.	The Bill should be referred to the Ministry of Law and Justice for vetting after the		The provision is confusing in nature since according to the Parliamentary provision the



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	pre-legislative consultations as well as inter-ministerial consultations are over. The Ministry of Law and Justice shall ensure that the concerned Department/Ministry has adhered to the process of pre-legislative consultation.		administrative Department is prohibited from drafting the legislation – which is the prerogative of the Legislative Department of the Ministry of Law and Justice.
11.	The Department/ Ministry concerned should include a brief summary of the feedback received from various stakeholders along with its response in the Note for the cabinet along with the draft legislation.		The response so drafted by the Department / Ministry concerned must be published on a public domain for perusal. However, search for any invitation for comments on RDBFI reveals that no public or stakeholder consultation is done in the fashion prescribed.
12.	The concerned Department will obtain <ul style="list-style-type: none"> <li>• Recommendation of the President for introduction of any Bill of strategic importance of affecting polity of the country or imposing or varying any tax or duty intra or among states</li> <li>• Recommendation also required for consideration of a Bill if it involves expenditure from the Consolidated Fund of India.</li> </ul>	<p style="text-align: center;"><b>Recovery of Debts Due to banks and Financial Institutions (Amendments) Act, 2000</b></p> <p>Recommendation of the President received</p>	
13.	Chapter on Committees of Parliament in Manual <sup>15</sup> states the manner of coordination of action taken on recommendations of the Estimates Committee. This provides that the recommendations relating to a single Department will be dealt with by the Department concerned and if they raise	<p style="text-align: center;"><b>Recovery of Debts Due to banks and Financial Institutions (Amendments) Act, 2000</b></p> <ul style="list-style-type: none"> <li>• The Committee on Estimates (1998-1999) of the 12<sup>th</sup> Lok Sabha found that the dubious role of the chief executives of the banks is a contributing factor for turning huge advances into bad loans.</li> <li>• In the Estimates Committee's Fifth Report for</li> </ul>	Despite the fact that many recommendations of the Committee were not accepted such as: <ol style="list-style-type: none"> <li>1. Public Sector Banks to contain NPAs at around 3-4 per cent.</li> <li>2. Failure to render diligent and dedicated service at discharge of responsibility to borrowers, inadequacy to assess</li> </ol>

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	<p>other more general policy questions, be dealt with by the Department reported upon in consultation with the Cabinet Secretariat.</p>	<p>13<sup>th</sup> Lok Sabha, the action taken by the Government on the recommendations contained in Third Report of Estimates Committee for 12<sup>th</sup> Lok Sabha was recorded. Herein the significance of the Non-Performing Assets was duly recorded and observed.</p> <ul style="list-style-type: none"> <li>• The recommendations that were accepted by the Government were as follows: <ol style="list-style-type: none"> <li>1. Considerable misclassification by banks of their NPAs. The Committee expected the RBI to ensure better adherence by the banks to the prudential norms to achieve the desired objectives of their introduction;</li> <li>2. In case of large divergence of assets by bank auditors and RBI Inspectors, the Committee recommended that a serious note should be taken and these auditors should be debarred from auditing for their blatant misclassification.</li> <li>3. The Banks do not pay heed to the repeated revelation of RBI relating to the imprudent policies being pursued by the management for corrective measures.</li> <li>4. A detailed review of the regulatory and supervisory functions of RBI preferably by a Committee of Experts in banking matters to enhance its effectiveness and the laxity and complicity of RBI officials for not initiating action for effective timely measures may be made.</li> <li>5. The cases against ex-CMD of Indian Bank and other top executives should be pursued vigorously for meting out severe punishment to</li> </ol> </li> </ul>	<p>business risks and no fear of legal action initiated for recovery of problem loans from recalcitrant borrowers. This contributes to hike in NPAs.</p> <p>3. Indian Banking Association had informed that there are no well-defined safe limits as far as NPAs of the banks are concerned.</p>

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		<p>the guilty.</p> <ol style="list-style-type: none"> <li data-bbox="831 272 1507 671">6. Regarding big loans sanctioned by top functionaries of the Public Sector Banks that turned into bad debts during their service period that turned into bad debt after retirement of those functionaries. Eg of Chief Executives of Bank of Maharashtra, Vijaya Bank and Indian Bank was given since they granted advances in utter disregard of laid down system and procedure has been the major contributing factor for turning these huge advances into bad loans.</li> <li data-bbox="831 679 1507 855">7. Procedure and systems laid down for selection of beneficiaries and sponsoring of loan applications may be given a fresh look so that the involvement of various intermediaries is brought down considerably.</li> <li data-bbox="831 863 1507 1078">8. Issue of wilful defaulters was highlighted. In case of wilful default recovery suits should be filed or not should also be published for guidance of other banks who should be instructed to exercise utmost caution in extending credit facilities to such borrowers.</li> <li data-bbox="831 1086 1507 1302">9. An appropriate mechanism be evolved whereby there should be adequate disclosure of information among banks regarding defaulting borrowers, enabling banks to tackle adequate precautions while extending credit facilities to such borrowers or otherwise dealing with them.</li> <li data-bbox="831 1310 1507 1375">10. Performance of various recovery plans is being looked into by the RBI during inspection of</li> </ol>	

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		<p>banks carried out at regular intervals.</p> <p>11. Setting up of Asset Reconstruction Companies</p> <p>12. Pending proceedings should be expeditiously finalised.</p> <p>13. Public Sector Banks also share information on loan sanction and loan write off/compromise proposals in cases of borrowal accounts of Rs 10 lakh and above to caution the other banks from lending to such defaulting borrowers.</p> <p>14. Introduction of a system of obtaining an audit certificate from borrowers to ensure proper end-use of funds lent.</p> <p>15. Place right people for awareness at operational level for credit risk awareness, delay in disbursement of loans by banks that contribute to NPAs, not to post bank officers for credit portfolio work during the three years preceding their retirement (since it takes 2 years for bad debts to surface) and a review of performance of the officer belonging to credit portfolio management should be made on regularly at least 1 year before his retirement to assess whether he had not acted prudently while sanctioning of advances.</p> <p>16. Public Sector banks to reduce their NPAs and reduce their dues through upgradation of accounts from sub-standard to standard category comprise/ write off loans as per laid down guidelines and cash recoveries.</p> <p>17. Increase in the number of DRTs.</p>	
18.	Chapter on Subordinate Legislation gives a	<ul style="list-style-type: none"> <li>• Rajya Sabha Committee on Subordinate</li> </ul>	The Report of the Rajya Sabha Committee on

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	<p>detailed account as to the manner of formation and nature of subordinate Committee. Laws made by Parliament usually vest the power in the government to make and notify in the Gazette of India rules, regulations etc. to subserve the objectives laid in the main legislation. Since these rules are statutory in nature they come within the scope of what is termed as “Subordinate Legislation”</p>	<p>Legislation was also formed.<sup>16</sup> The Report was presented in 1998, and focuses primarily on the manner in which the DRTs were functioning at that point of time. The Report acknowledged that suggestions received from various banks and financial institutions, their Officers’ Associations and Employees’ Union.</p> <ul style="list-style-type: none"> <li>• Some of the recommendations of the Committee on Subordinate Legislation made certain significant recommendations such as <ol style="list-style-type: none"> <li>1. DRTs and DRATs should be restructured on lines of Revenue Courts/ Special Courts with codified rules and procedure like Civil Procedure Code.</li> <li>2. Make debt recovery mechanism effective. Allow attachment and summary powers to each Recovery Officers.</li> <li>3. Geographical jurisdiction needs to be reduced. Urgent need to have separate Tribunal for large states so that the burden of cases in existing tribunals is lessened.</li> <li>4. Recovery officers and number of Tribunals must be increased.</li> </ol> </li> </ul>	<p>Subordinate Legislation reflects that stakeholder consultation was duly taken up by the Committee.</p>
<b><i>Legislative Process</i></b>			
5.	<p>Under the direction of the Speaker 7 days’ notice is given for introducing an official Bill in Lok Sabha. However, no Bill can be introduced in the lower House until after copies thereof have been provided to all members for at least 2 days before the day on which the Bill is proposed to be introduced.</p>	<p><b>Recovery of Debts Due to banks and Financial Institutions (Amendments) Act, 2000</b></p> <p>The Legislative process of the 1993 Act and subsequent 1994 amendment is not available, however, the Lok Sabha debate over the 2000 amendment is found on the Lok Sabha Website<sup>17</sup>.</p> <p>The then Finance Minister pointed out that an amendment was duly made to the Act of 1993</p>	<p>Wilful defaulters though being a crucial and often debated issue, nonetheless, the problem still persists. Meaning that the issue of wilful defaulters have not been addressed completely. The problem continues to persist since the issue was not exhaustively debated and addressed in the Act as well as the subsequent amendments</p>

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		<p>establishing Debt Recovery Tribunals, which were declared unconstitutional by the High Court. The order was stayed by the Supreme Court, through a Special Leave Petition filed by the Government. On direction of the Supreme Court an amendment was introduced in the Parliament in March 1999, however, it lapsed owing to dissolution of the Lok Sabha itself.</p> <p><b>The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004</b></p> <p>The debate of the Lok Sabha generally revolved around the issues related to DRTs and Wilful Defaulters.</p> <p><b>The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2011</b></p> <p>While discussing the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011 it was pointed out that the Bill enabled the DRTs to pass orders too. It was questioned as to how these DRTs would be structured and placed, especially since body such as Board for Industrial and Financial Reconstruction (BIFR) was already in place. The discussion also stressed upon the provision of caveat within the proposed amendment that provided a wilful defaulter a time span of 14 days instead of 7 days to respond.</p>	
6.	<ul style="list-style-type: none"> <li>In case the Bill is referred to the Standing Committees for examination, the Department concerned may examine the report of the Committee when it is presented to either the House or to the Presiding Officer. Where the Department decides to affect changes in any provision</li> </ul>	<p><b>Recovery of Debts Due to banks and Financial Institutions (Amendments) Act, 2000</b></p> <p>One of the most significant discussions in the Lok Sabha Debate was as to why the Bill was not referred to the Standing Committee. It was alleged that the Government resorted to the route of Ordinance in order to bifurcate the standard procedure of referring a Bill to</p>	<ul style="list-style-type: none"> <li>In case of the RDBFI Act as well as the subsequent amendments, the proposed legislations were never referred to the Standing Committee. It is dubious as to why the standard procedure was never followed repeatedly. The discussions of 2000 and 2011 Amendments revolved around why the</li> </ul>

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	<p>of the Bill, on the basis of the recommendations from the Committee, it may obtain the approval of the Cabinet to the amendments proposed in the Bill. Once Cabinet approves the notice of motion of amendments is moved by the Minister of concerned Department.</p> <ul style="list-style-type: none"> <li>As per the Pre-consultation Policy, the concerned Department/ Ministry must place before the Department related Standing Committee, a summary of the pre-legislative process.</li> </ul>	<p>the Standing Committee.</p> <p><b>The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2011</b></p> <p>It was observed that one of the customs of the Lok Sabha has been to refer a Bill to the Standing Committee. Since there is a Standing Committee on Finance, it was argued as to why the Bill was not sent to the Standing Committee.</p>	<p>standard procedure was constantly been bifurcated. Nonetheless, the Bills were assented to and passed.</p> <ul style="list-style-type: none"> <li>Though sending a summary of pre-legislative consultation seems like a logical precursor to referring a Bill to the Standing Committee, nevertheless, adherence to the procedure is dubious since there is lack of transparency as to how the summary is sent or perused.</li> </ul>
7.	<p>After introduction of the Bill, the Minister of the concerned Department may send notice indicating intention that the Bill may be moved, considered and passed; be referred to the Select Committee of the House; be referred to a Joint Committee of both Houses with the concurrence of the other House and also for eliciting public opinion.</p>	<p><b>The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2011</b></p> <p>The Debate on the Bill started with the discussion whether the Bill be first sent to the Select Committee or Joint Committee of the House or may be circulated to gather public comments.</p>	
8.	<p>The composition and last date of submission of report of the Select/Joint Committee will be indicated by the concerned Department along with the names of members of Committee to be appointed will be suggested by the Ministry of Parliamentary Affairs. Once the Committee is constituted, its chairman is nominated by the Speaker/ Chairman.</p>		
9.	<p>When a Bill is to be circulated for</p>		

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	procuring public comments, necessary actions must be taken by the Lok/Rajya Sabha to ensure that such Bill is circulated to the State Governments for their comments.		
10.	When the Bill is taken for consideration, such perusal must be made on clause-to-clause basis. At this stage too members can move amendments to the Bill.	<p data-bbox="786 424 1503 491"><b>The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004</b></p> <p data-bbox="786 496 1503 671">Clause to clause consideration of the Bill took place in the debate. Though the text of the debate on the Lok Sabha web page had corrupt file however, it could be deciphered that the Bill was perused on significant clauses.</p>	
11.	With respect to amendments, copies of such notice are sent by Lok/Rajya Sabha Secretariat to Department concerned. On receipt of notice the branch officer will put them up with briefs for use of the Minister for determining Government's attitude. Government amendments too are moved at this stage. Amendments falling in the ambit of strategic, polity and finance are subject to same restrictions as in case of strategic, polity and finance Bills.		
12.	After a Bill is passed by a House a copy of the Bill is sent by the Secretariat to the Ministry of Law and Justice for scrutiny.		
13.	Once the Bill is laid on table of the other House, the concerned Minister will give notice of a motion in a prescribed form to the Secretary-General of the House and also communicate the recommendation of		



S.No.	Mandatory Law Making Process <sup>9</sup>	RDBFI Act, 1993	Remarks
	the President.		
14.	In case of a Bill passed by one House with amendments the concerned Department will determine whether any consequential changes are required in the Financial Memorandum or Memorandum regarding Delegated Legislation.		
15.	Once the Bill is passed by both the Houses, a copy of the Bill is sent to Legislative Department of Ministry of Law and Justice for scrutiny. After which it is sent to the President.		
<i>Post Legislative Process</i>			
16.	Ministry of Law and Justice will publish the Act in the Gazette of India Extraordinary	<p data-bbox="786 724 1505 791"><b>The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2011</b></p> <p data-bbox="786 799 1505 1192">Committee on Petitions, Rajya Sabha has moved a petition imploring to take immediate steps to control the increasing Non Performing Assets in the Banking Sector in 2013.<sup>18</sup> The Petition is directed towards the concern to take steps to correct increasing NPAs, channelize proper mechanism that would ensure that bank's do not resort to covering bad debts, study performance of DRTs and also to check the instances wherein NPAs are settled in connivance with Bank Management – since it is a violation of RBI regulations too.</p>	

**Law Making Process for Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002  
(SARFAESI Act, 2002)**

S.no.	Mandatory Law Making Process <sup>19</sup>	SARFAESI Act, 2002	Remarks
<i>Pre Legislative Process</i>			
14	Legislation to be initiated in the Department to which subject matter of legislation relates.	Like RDBFI, pre-legislative process of SARFAESI can be traced from the Lok Sabha Debates and also from the reports of various Committees under both the Houses.	
15	<p>Pre-drafting stage shall consist of four phases:</p> <ul style="list-style-type: none"> <li>• Formulation of legislative proposals in consultation with all the interested and authorities concerned essentially from administrative and financial perspective.</li> <li>• Consultation with the Ministry of Law and Justice for advice as to its feasibility from legal and constitutional perspective</li> <li>• Preparation of a self-contained note by the concerned Department in consultation with the Ministry of Law and Justice</li> <li>• Department concerned to send all relevant papers to Ministry of Law and Justice (Legislative Department) with an Office Memorandum indicating the rationale/ justification of the</li> </ul>	<p align="center"><b>Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Bill, 2002</b></p> <p>The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (Second) Ordinance, 2002 was disapproved and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Bill, 2002 was moved.</p> <p align="center"><b>Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2004</b></p> <p>The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2004 amended SARFAESI. Like SARFAESI, the amendment too sought the route of an Ordinance.</p> <p align="center"><b>Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011</b></p> <p>The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011 amended further the RDBFI and SARFAESI Act. The amendment seemed to aim at streamlining the process under the</p>	<ul style="list-style-type: none"> <li>• The manner in which policy or legislations are drafted is often questioned by both the experts of the field as well as those who practice. Intrinsic lacunae in drafting leads to legislations that led to a different meaning altogether from that which was envisioned or intended by the legislatures. Such ambiguity surfaces also in the Manual of Parliamentary Procedures. For instance, Chapter 9 of the Manual states that, “The Department concerned will formulate the legislative proposals in consultation with all the <i>interests and authorities concerned</i>, essentially from administrative and financial points of view.” The phrase “<i>interests and authorities</i>” given in the Manual must have been “interested and authorities” indicating interested parties and authorities involved in the making of such a legislation. The ambiguity in the drafting lead to confusion in the law making procedure. The words in the Manual leads to the confusion as to the nature of “interests” whether non-</li> </ul>

S.no.	Mandatory Law Making Process <sup>19</sup>	SARFAESI Act, 2002	Remarks
	<p>proposed legislation. Office Memorandum must contain: a detail of legislative proposal; background material; other relevant details; draft Cabinet Note<sup>20</sup>.</p> <p>The administrative Department will not attempt to draft the Bill</p>	<p>SARFAESI Act as well as RDBFI Act by making provisions for transferring proceedings in the name of ARC.</p>	<p>government and players of the concerned sector/ business also are consulted.</p> <ul style="list-style-type: none"> <li>• Documents such as Office memorandum, indicating rationale of the proposed legislation and draft note for Cabinet. Office Memorandum is made as per the format given in the Handbook on Writing Cabinet Notes. The documents together reflect the intent and the objective of the legislature while drafting a particular bill. Therefore, the documents together are intrinsic part to assess the resultant effect of the effectuated legislation.</li> <li>• In case of SARFAESI or its subsequent amendments, none of the documents are available therefore it is difficult to assess and</li> </ul>
16	<p>Ministry of Law and Justice will prepare a draft Bill within 30 days after getting clearance from Department of Legal Affairs on the basis of the material supplied to it by the concerned Department</p>		<p>The Manual requires assent of Department of Legal Affairs (Ministry of Law and Justice) before the Ministry of Law and Justice – Legislative Department starts drafting the Bill. The Manual, however, does not clearly word out as to how many days the Department of Legal Affairs must dedicate on a single Bill. In absence of any prescribed time, the costs on drafting the Bill increases substantially.</p>
17	<p>If the Bill has more than 25 clauses then include a table showing arrangement of clauses; in case of an amending Bill contain only relevant provision of the Act that needs to be amended</p>		

S.no.	Mandatory Law Making Process <sup>19</sup>	SARFAESI Act, 2002	Remarks
18	<p>The Cabinet Note shall states the object, need and scope of the proposed legislation; reflect the views of other Departments (if so required by the procedure laid by the Cabinet Secretariat; explain effect of proposed legislation and include the draft of the proposed Bill in Annexure. Once the Note for the Cabinet is finalised and the draft Bill is accepted after scrutiny by the Department concerned, the Note shall be sent to the Cabinet Secretariat and placed before the Cabinet for its approval.</p>		<p>Note for the Cabinet is an important document that reflects the basic intention behind any Bill. The fact that it is an intrinsic document designates it to be a public document and must be therefore freely available.</p>
19	<p>After approval of the Cabinet, the concerned Department will examine the decision of the Cabinet to assess whether any changes need to be made in the Bill. If yes, then the relevant papers and the decision of the Cabinet will be sent back to the Ministry of Law and Justice to make necessary changes in the draft Bill in consultation with the concerned Department. If no changes are needed then, the concerned Department will prepare:</p> <ul style="list-style-type: none"> <li>• Statement of object for the Bill</li> <li>• Notes on clauses to be appended in case the Bill is complex in nature</li> <li>• Financial Memorandum prepared in consultation with the Ministry of Finance, with respect to Bills dealing with expenditure or giving</li> </ul>		

S.no.	Mandatory Law Making Process <sup>19</sup>	SARFAESI Act, 2002	Remarks
	<p>an estimate of recurring or non-recurring expenditure.</p> <ul style="list-style-type: none"> <li>Memorandum dealing with any Delegated Legislation explain the ambit of the Bill</li> </ul> <p>All documents need to be perused by Ministry of Law and Justice (Legislative Department) before finalisation.</p>		
20	<ul style="list-style-type: none"> <li>Every Department / Ministry shall proactively publish the proposed legislations both on internet and on other means.</li> <li>Every draft legislation placed in public domain should be accompanied by an explanatory note explaining key provisions</li> <li>Summary of feedback received from public/ stakeholders should be placed on the website of the Department/ Ministry concerned.</li> </ul>		<ul style="list-style-type: none"> <li>Though a practice of late, however, neither SARFAESI nor its subsequent amendments were subjected to public comments. This should ideally be at place to understand and assess legislations from industry, market and public perspective.</li> <li>Explanatory note stands as a key document that highlights the objective of the legislation and at the same time focusses on the intended practice change aimed through the legislation.</li> <li>Though ideally the Department/ Ministry concerned must reflect the comments accepted by them or incorporated in the legislation. However, in practice this is not followed. The bodies/ Departments/ ministries do not give an explanation as to why certain comment is or is not incorporated within the body of a proposed legislation.</li> </ul>
21	<p>In addition to placing the proposal in public domain also hold consultation with all stakeholders. However, the degree of participation and mode of consultation</p>		

S.no.	Mandatory Law Making Process <sup>19</sup>	SARFAESI Act, 2002	Remarks
	may be decided by the Department/Ministry concerned and also may change as per the nature of the subject and potential impact.		
22	Department / Ministry concerned should publish/place in public domain the draft legislation or information that may include brief justification of such legislations. The essential elements of financial impact, impact on environment, fundamental rights, life and livelihood of the affected people must be assessed. Such information must be kept in public domain for 30 days for purposes of dissemination and awareness.	<p style="text-align: center;"><b>Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Bill, 2002</b></p> <p>The debate reflects that a passing reference was made to the Andhyarujina Committee and Narasimham Committee.</p> <p style="text-align: center;"><b>Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011</b></p> <p>Reference was made to the operational efficiency of the banks, deployment of funds for credit disbursement to retail investors, home loan borrowers without fear of recovery, thereby allowing equity.</p>	<ul style="list-style-type: none"> <li>• This step is the essential aspect of RIA. The pre-legislative step states that RIA is intrinsic part of the pre-legislative process and that the impact assessment of the relevant stakeholders is to be done to weigh the cost incurred and the benefits reaped due to enforcement of a proposed legislation.</li> <li>• In case of the SARFAESI Act, though a direct stakeholder consultation was not held, nonetheless opinion of the industry was taken into account by referring to the Andhyarujina Committee and Narasimham Committee reports. In case of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill 2011, the Hon. Finance Minister stated about the concerns of the banks and other players with respect to bad debts.</li> </ul>
23	The Bill should be referred to the Ministry of Law and Justice for vetting after the pre-legislative consultations as well as inter-ministerial consultations are over. The Ministry of Law and Justice shall ensure that the concerned Department/Ministry has adhered to the process of pre-legislative consultation.		The provision is confusing in nature since according to the Parliamentary provision the administrative Department is prohibited from drafting the legislation – which is the prerogative of the Legislative Department of the Ministry of Law and Justice.
24	The Department/ Ministry concerned should include a brief summary of the		The response so drafted by the Department / Ministry concerned must have been published

S.no.	Mandatory Law Making Process <sup>19</sup>	SARFAESI Act, 2002	Remarks
	feedback received from various stakeholders along with its response in the Note for the cabinet along with the draft legislation.		on a public domain for perusal.
25	<p>The concerned Department will obtain</p> <ul style="list-style-type: none"> <li>• Recommendation of the President for introduction of any Bill of strategic importance of affecting polity of the country or imposing or varying any tax or duty intra or among states</li> <li>• Recommendation also required for consideration of a Bill if it involves expenditure from the Consolidated Fund of India.</li> </ul>		
26	Chapter on Committees of Parliament in Manual <sup>21</sup> states the manner of coordination of action taken on recommendations of the Estimates Committee. This provides that the recommendations relating to a single Department will be dealt with by the Department concerned and if they raise other more general policy questions, be dealt with by the Department reported upon in consultation with the Cabinet Secretariat.		
27	Chapter on Subordinate Legislation gives a detailed account as to the manner of formation and nature of subordinate Committee. Laws made by Parliament		

S.no.	Mandatory Law Making Process <sup>19</sup>	SARFAESI Act, 2002	Remarks
	usually vest the power in the government to make and notify in the Gazette of India rules, regulations etc. to subserve the objectives laid in the main legislation. Since these rules are statutory in nature they come within the scope of what is termed as “Subordinate Legislation”		
<i>Legislative Process</i>			
28	Under the direction of the Speaker 7 days’ notice is given for introducing an official Bill in Lok Sabha. However, no Bill can be introduced in the lower House until after copies thereof have been provided to all members for at least 2 days before the day on which the Bill is proposed to be introduced.		
29	<ul style="list-style-type: none"> <li>• In case the Bill is referred to the Standing Committees for examination, the Department concerned may examine the report of the Committee when it is presented to either the House or to the Presiding Officer. Where the Department decides to affect changes in any provision of the Bill, on the basis of the recommendations from the Committee, it may obtain the approval of the Cabinet to the amendments proposed in the Bill. Once Cabinet approves the notice of motion of amendments is moved by the Minister of concerned Department.</li> <li>• As per the Pre-consultation Policy,</li> </ul>	<p style="text-align: center;"><b>Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Bill, 2002</b></p> <p>One of the allegations made against the SARFAESI Bill was that the fact that an Ordinance was made and then converted to a Bill was with the intention of evading Standing Committee. The debate of the Lok Sabha emphasised greatly on the requirement of the Bill to be first presented to the Standing Committee and then to the Lower House.</p> <p style="text-align: center;"><b>Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011</b></p> <p>One of the prominent issues was that the Parliamentary procedure was not followed. While the Manual dictates</p>	<ul style="list-style-type: none"> <li>• Though sending a summary of pre-legislative consultation seems like a logical precursor to referring a Bill to the Standing Committee, nevertheless, adherence to the procedure is dubious since there is lack of transparency as to how the summary is sent or perused.</li> </ul>



S.no.	Mandatory Law Making Process <sup>19</sup>	SARFAESI Act, 2002	Remarks
	the concerned Department/ Ministry must place before the Department related Standing Committee, a summary of the pre-legislative process.	that the Bill be sent to the Related Department Standing Committee, however, this was not done and the Bill bifurcated the regular procedure. It was highlighted that the while the Standing Committee under the Chairmanship of Yashwant Sinha was about to submit its report on Banking Companies (Amendment) Bill, then why the Bill was not directed to the said Standing Committee.	
30	After introduction of the Bill, the Minister of the concerned Department may send notice indicating intention that the Bill may be moved, considered and passed; be referred to the Select Committee of the House; be referred to a Joint Committee of both Houses with the concurrence of the other House and also for eliciting public opinion.	<p style="text-align: center;"><b>Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011</b></p> It was presented before the Parliament that the Bill was bifurcating the requirement to be referred to either the Select Committee or be circulated for the purpose of eliciting public opinion.	
31	The composition and last date of submission of report of the Select/Joint Committee will be indicated by the concerned Department along with the names of members of Committee to be appointed will be suggested by the Ministry of Parliamentary Affairs. Once the Committee is constituted, its chairman is nominated by the Speaker/ Chairman.		
32	When a Bill is to be circulated for procuring public comments, necessary actions must be taken by the Lok/Rajya Sabha to ensure that such Bill is circulated to the State Governments for their		

S.no.	Mandatory Law Making Process <sup>19</sup>	SARFAESI Act, 2002	Remarks
	comments.		
33	When the Bill is taken for consideration, such perusal must be made on clause-to-clause basis. At this stage too members can move amendments to the Bill.	<p data-bbox="772 274 1500 343"><b>The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004</b></p> <p data-bbox="772 347 1500 526">Clause to clause consideration of the Bill took place in the debate. Though the text of the debate on the Lok Sabha web page had corrupt file however, it could be deciphered that the Bill was perused on significant clauses.</p> <p data-bbox="772 531 1500 600"><b>Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill, 2011</b></p> <p data-bbox="772 604 1500 715">The Bill was to a certain point discussed on clause to clause basis and such parts of the Bill do throw immense light on the intended practice change.</p>	
34	With respect to amendments, copies of such notice are sent by Lok/Rajya Sabha Secretariat to Department concerned. On receipt of notice the branch officer will put them up with briefs for use of the Minister for determining Government's attitude. Government amendments too are moved at this stage. Amendments falling in the ambit of strategic, polity and finance are subject to same restrictions as in case of strategic, polity and finance Bills.		
35	After a Bill is passed by a House a copy of the Bill is sent by the Secretariat to the Ministry of Law and Justice for scrutiny.		
36	Once the Bill is laid on table of the other House, the concerned Minister will give notice of a motion in a prescribed form to the Secretary-General of the House and		

S.no.	Mandatory Law Making Process <sup>19</sup>	SARFAESI Act, 2002	Remarks
	also communicate the recommendation of the President.		
37	In case of a Bill passed by one House with amendments the concerned Department will determine whether any consequential changes are required in the Financial Memorandum or Memorandum regarding Delegated Legislation.		
38	Once the Bill is passed by both the Houses, a copy of the Bill is sent to Legislative Department of Ministry of Law and Justice for scrutiny. After which it is sent to the President.		
<i>Post Legislative Process</i>			
39	Ministry of Law and Justice will publish the Act in the Gazette of India Extraordinary	<p style="text-align: center;"><b>The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2011</b></p> <p>Committee on Petitions, Rajya Sabha has moved a petition imploring to take immediate steps to control the increasing Non Performing Assets in the Banking Sector in 2013.<sup>22</sup> The Petition is directed towards the concern to take steps to correct increasing NPAs, channelize proper mechanism that would ensure that banks do not resort to covering bad debts, study performance of DRTs and also to check the instances wherein NPAs are settled in connivance with Bank Management – since it is a violation of RBI regulations too.</p>	

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## Endnotes

<sup>1</sup> Procedure drawn from the Manual of Parliamentary Procedures in the Government of India Chapter on Legislations, accessed from [http://mpa.nic.in/mpa/Manual/Manual\\_English/Chapter/chapter-09.htm](http://mpa.nic.in/mpa/Manual/Manual_English/Chapter/chapter-09.htm) and also from Decisions taken in the meeting of the Committee of Secretaries (CoS) held on 10<sup>th</sup> January, 2014 under the Chairmanship of Cabinet Secretary on the Pre-legislative Consultation Policy (PLCP) accessed from <http://lawmvin.nic.in/ld/plcp.pdf> .

<sup>2</sup> Pre-Legislation Consultation Policy, 05 February 2014

<sup>3</sup> Ibid

<sup>4</sup> On Parliamentary Procedures of Government of India, Lok Sabha Rules

<sup>5</sup> See, the Pre-legislative consultation policy (PLCP) (issued in the year 2014)

<sup>6</sup> Such as the Recovery of Debts Due to Banks and Financial Institutions Ordinance, 1993, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (Second) Ordinance, 2002, etc.

<sup>7</sup> On expiration of both the ordinances, the bills were subsequently introduced and passed in the parliament.

<sup>8</sup> In 2012, amendments to sections 5(1)(5), 9(g) and 13(9) of Securitisation Act, and amendments to sections 15 (proviso), 19(3A), 19(5), 19(5A), 36(2)(cc) to the DRT Act were introduced in Rajya Sabha and not in Lok Sabha

<sup>9</sup> Supra Note 1

<sup>10</sup> The Draft Note to the Cabinet is made in accordance with the Government of India Cabinet Secretariat Handbook on Writing Cabinet Notes, accessed from <http://cabsec.nic.in/files/preparationofnotes/preparationofnotes.pdf>

<sup>11</sup> *Delhi High Court Bar Association v. Union of India*, AIR 1995 Del 323

<sup>12</sup> *Union of India and anr. v. Delhi High Court Bar Association and ors.*, (2002) 4 SCC 275

<sup>13</sup> Collected from the Legislative debate (Lok Sabha) accessed from <http://164.100.47.132/LssNew/psearch/Result13.aspx?dbsl=652>

<sup>14</sup> Joseph Raj, “Recent Judgements Relevant to Bankers”, RBI Legal News and Views (Part 2 of 2), Judgement Section, July (2002) accessed from <http://www.rbi.org.in/scripts/PublicationsView.aspx?Id=4408>

<sup>15</sup> Procedure drawn from the Manual of Parliamentary Procedures in the Government of India Chapter on Committee of Parliament, [http://mpa.nic.in/mpa/Manual/Manual\\_English/Chapter/chapter-12.htm](http://mpa.nic.in/mpa/Manual/Manual_English/Chapter/chapter-12.htm)

<sup>16</sup> Committee on Subordinate Legislations, Rajya Sabha, Hundred and Eighteenth Report on Recovery of Debts due to Banks and Financial Institutions Act, 1993 (Presented on June 12, 1998), <http://164.100.47.5/newcommittee/reports/EnglishCommittees/Committee%20on%20Subordinate%20Legislation/118.pdf>

<sup>17</sup> Lok Sabha Debate, Statutory Resolution Re: Disapproval of Recovery of Debts Due to Banks and Financial Institutions (Amendment) Ordinance and Recovery of Debts Due to Banks and Financial Institutions (Amendment) Bill, <http://164.100.47.132/LssNew/psearch/Result13.aspx?dbsl=652>

<sup>18</sup> Committee on Petitions, Petition Praying to take immediate steps to control the increasing Non Performing Assets in the Banking Sector (2013), [http://164.100.47.5/newcommittee/press\\_release/Press/Committee%20on%20Petitions/Press%20Eng.pdf](http://164.100.47.5/newcommittee/press_release/Press/Committee%20on%20Petitions/Press%20Eng.pdf)

<sup>19</sup> Supra Note 1

<sup>20</sup> Supra Note 10

<sup>21</sup> Supra Note 15

<sup>22</sup> Supra Note 18