# IAS PARLIAMENT

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A Shankar IAS Academy Initiative

# MAINSTORMING 2018

## ACTS & POLICIES I

**Shankar IAS Academy™**
**Door No 18, New Plot No 259 /109,**
**AL Block, 4th Avenue, Shanthi Colony,**
**Annanagar, Chennai - 600040.**

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## 1. SCHEMES IN NEWS

### 1.1 Critically Evaluating the Swachh Bharat Mission

**What is the issue?**

Independent studies on the Swachh Bharat Mission – SBM (rural) contradicts with the government's claims on the mission outcomes.

**What was the focus of SBM (Rural)?**

- The primary priority of the SBM-rural was to ensure an **'Open Defecation Free' India by 2018**.
- To achieve this, the government imposed a Swachh Bharat Cess to raise funds and set out on a vigorous campaign.
- It set ambitious targets for every 'administrative village' for constructing toilets within specific deadlines to ensure 100% latrine access.

**What does the official data say?**

- Over Rs. 60,000 crore has been spent on the programme thus far.
- Apart from the government's data, the only other comprehensive data source is with the 'Swachh Survekshan Gramin' – SSG 2017.
- SSG survey was conducted by the Quality Council of India (QCI), a body set up jointly by the Government of India and industry.
- Both sources portray a similar picture, which rated nation-wide latrine coverage at around 60%.
- Moreover, the QCI survey also claimed that around 90% of those with access to a toilet actually used it.

**What are the problems with the official data?**

- Despite the lack of other comprehensive data pointers, the independent studies on a smaller scale have largely contradicted the official version.
- **Quantitative Approach -** Implementation of the program was highly number intensive, with focus only on building physical structures.
- After the targeted number of latrines being constructed, a village would be declared 'open defecation free'.
- Hence, there seemed to be little effort to look into whether the latrines are being used and open defecation has really gone down.
- **Exaggerating Count -** Unused structures constructed under UPA government's latrine building programme "Nirmal Bharat" have also been counted under SBM.
- In fact, pictures of many such defunct latrines can be seen on the SBM website categorised as uploaded, approved and counted.
- Also, certain villages have been declared "ODF verified villages" where less than 30% households have a latrine.
- **Nudged questionnaires -** The questionnaire used for surveys by government was biased to get an outcome in support of latrine use.
- Evidently, QCI survey says that around 90% of those having access to latrines use them, which is not the true case.
- On the other hand, surveys that employed a balanced questionnaire highlighted more open defecation practices.
- Distorted claims defeat the very purpose of the programme, which is to bring in a behavioural change among people for achieving sustained cleanliness.
- **Forcing Compliance -** The study found that in most villages, coercive measures and threats were used to promote the SBM.

- Name shaming and harassment of people by officials burdened with targets was found in many places.
- Notably, less than a quarter of households said that it was their own initiative to build the toilet.
- **Debt Burden -** The programme operated on a 'build first and get reimbursed later' model, to promote project ownership among people.
- But considering the cost (anywhere between Rs. 12-25 thousand to build a latrine) and the kind of institutional pressure to comply, many were forced to borrow from informal source.
- These kinds of finding are certainly contrary to the government's claim that the SBM was a people's movement.

## 1.2 Timely Wages to MNREGA Workers

### Why in news?

There is an ongoing PIL in the Supreme Court between Swaraj Abhiyan versus Union of India.

### What is the PIL about?

- The PIL is about the lack of functioning of social security systems like the National Food Security Act (NFSA) and the National Rural Employment Act (NREGA).
- The NREGA mandates that every worker must receive her wages within 15 days of completion of a workweek.
- If this condition is not met, a delay compensation is to be paid at a rate of 0.05% per day of delay.
- In spite of this merely 21% of the sampled transactions were paid within the stipulated 15-day period.

### How is the payment made?

- Under the National Electronic Fund Management system (Ne-FMS), upon completion of a work week, a Funds Transfer Order (FTO) is generated at the block/ panchayat.
- Then the Centre approves the FTO digitally.
- Then the money is transferred directly to the individual workers' account.
- The time taken till FTO generation is the state's responsibility and the time taken thereafter is the Centre's responsibility.

### What constitute the delays?

- **Definition of Delay -** The current definition of the delay calculates delay days only until the FTOs get generated at the block/ panchayat.
- The times taken by the Centre to process the FTOs and release wages are not getting accounted as delays.
- **Payment Infrastructure -** In an attempt to improve the payments process, the government migrated to the Ne-FMS in April 2016.
- Prior to the Ne-FMS system, the state governments would use a contingency/ revolving fund to make the payments until the Centre sanctioned the funds.
- The current payments system is completely centralised.
- The state governments cannot pay the workers even if they intend to.

### What should be done?

- Not only has the government violated the law but also the worker's rights to timely wages.
- The payments infrastructure requires seamless coordination between the Centre, states, payment agencies, and the administrative bodies.
- There should also be a clearly defined responsibilities for each one of them.

## 1.3 PDS and Aadhaar

### Why in news?

An 11-year-old girl died of starvation in Jharkhand after the local PDS shop refused to provide her family with any food, as their ration card was not linked to the Aadhaar.

### What is the government's directive in this regard?

- The Central government has been insisting on 100% Aadhaar "seeding" across various schemes.

- These include the Public Distribution System, MGNREGA and pensions.
- **Seeding** refers to the practice of entering Aadhaar numbers for each household member on the ration card.
- Seeding is a pre-requisite for the **Aadhaar-based Biometric Authentication (ABBA)** system.
- ABBA is a practice of using an electronic point of sale (PoS) machine to authenticate each transaction in the PDS.

**What is the recent problem?**

- To achieve 100% Aadhaar-seeding targets, some field functionaries just deleted the names of those who did not submit Aadhaar details.
- Some others waited until the deadline and then struck off the names.
- In some cases, the middlemen does the seeding wrongly, thus denying the beneficiaries of their rights.
- Resultantly, the government claims these ration cards to be "fake" as detected with Aadhaar details.
- This procedural mishap is considerably depriving many families of their entitlements through the Public Distribution System.

**What are the shortfalls?**

- **Awareness** - The aggrieved are being blamed for failing to seed Aadhaar but the reality is that many of them are unaware of the seeding requirement.
- When pensions in Jharkhand suddenly stopped for many pensioners, they had no idea why.
- **Technical** - Seeding is not as simple as it sounds and is one of the many barriers that the ABBA has created in the smooth functioning of the PDS.
- At the time of purchase, the authentication process under ABBA requires:
    i. power supply
    ii. a functional PoS machine
    iii. mobile and Internet connectivity
    iv. State and Central Identities Data Repository (CIDR) servers to be 'up'
    v. fingerprint authentication to be successful
- Given all these, the Finance Ministry's latest Economic Survey, based on micro-studies, reports high biometric failure rates.
- **Corruption** - Biometric Authentication for transactions has no role in reducing corruption.
- Either seeding or the ABBA can do little to stop the quantity fraud which is the practice of cheating on quantities sold.
- PDS dealers continue to cheat people by cutting up to a kg of their grain entitlement despite successful ABBA authentication in some regions.

**What should be done?**

- Continuing with mandatory ABBA would only disrupt the PDS, which is significantly a lifeline for the poor.
- Identity fraud, for example in the form of duplicate ration cards, requires only Aadhaar-seeding.
- Certainly, the ABBA is unnecessary in many ways, and some flexibility is lost when it is made mandatory.
- E.g. If an elderly person asks a neighbour to fetch their grain, it would count as identity fraud under mandatory ABBA.
- The mandatory biometric authentication (ABBA) can be withdrawn from the PDS and pensions.
- Instead, alternative technologies such as smart cards could be put in place.
- This will allow offline PoS machines with smart cards and rule out the need for internet dependence and biometric authentication.

## 1.4 Problems with Smart City Mission

**Why in news?**

The Ministry of Urban Development's released its fourth list under the Smart City Mission, taking the total number of cities picked under the Centre's flagship project to 90.

**What is Smart City?**

- There is **no universally accepted definition** of a smart city.
- The conceptualisation of Smart City varies from city to city and country to country, depending on the level of development, willingness to change and reform, resources and aspirations of the city residents.
- To provide for the aspirations and needs of the citizens, urban planners ideally aim at developing the entire urban eco-system, which is represented by the four pillars of comprehensive development-institutional, physical, social and economic infrastructure.
- This can be a long term goal and cities can work towards developing such comprehensive infrastructure incrementally, adding on layers of 'smartness'.

**What are the concerns?**

- A major share of the Centre's investment in the Mission will flow to well-developed pockets that account for less than 3% of the cumulative area of the cities.
- One of the objectives of the Smart City Mission was to act as a corrective to a lopsided developmental pattern.
- The mission intended to create employment and enhance incomes for all, especially the poor and disadvantaged leading to inclusive cities. This **emphasis on inclusive development has been diluted.**
- Only 26 of the cities selected have plans to provide affordable housing, education and medical facilities.
- The city development plans have not been aligned with some of the government's employment-generating initiatives.
- The government does have plans to promote start-ups and infrastructure projects. But these projects are concentrated in tiny pockets in the selected cities.
- Smart city plans have also **not found a way to deal with recurring problems.**
- For instance, Guwahati has no effective plan to deal with floods that ravage it every year.

## 1.5 PM Fasal Bima Yojana

**Why in news?**

CAG in its recent report has spotted huge gaps in PradhanMantriFasalBimaYojana and other crop insurance schemes.

**What are the shortcomings in implementation?**

- While PMFBY's success is due to the very low premium the farmer pays, the problem lies in the fact that the **assessment methods** haven't really changed.
- Due to **poor implementation** of the crop insurance scheme from the period 2011 to 2016, a huge sum was released to private insurers without proper verification of the beneficiaries.
- Insurance companies raked in a huge profit due to **low claim** reported in relation to the premium charged.
- One of the reasons for low claim settlement in relation to premium collected is **delay** in states releasing their share of the subsidy.

**Pradhan Mantri Fasal Bima Yojana**

- The PradhanMantriFasalBimaYojana (Prime Minister's Crop Insurance Scheme) was launched in 2016.
- It envisages a uniform premium of only 2 per cent to be paid by farmers for Kharif crops and 1.5 per cent for Rabi crops. The premium for annual commercial and horticultural crops will be 5 per cent.

- Claims must be paid to farmers within three weeks of yield data by insurance companies, while on ground, claims made for Kharif 2016 were still not fully settled.
- Claim settlement is delayed when states don't share their portion of subsidy or don't complete crop cutting exercises (CCE), or Centre doesn't release its share of subsidy.
- The **value of the crop** is based on the average yields of the last three years—to that extent, in an area where yields are growing, or for farmers who have higher yields, the sum insured doesn't represent the real value.
- Most districts tend to have just one or two notified crops, so most vegetables/fruit tend to be uninsured if they are not the major crop of the district.

**What is the way forward?**

- PMFBY is a success given how the number of farmers covered is up by 1 crore and the amount insured nearly doubled in the latest season.
- It is important to use technology to reap its benefits.
- Latest CAG report has highlighted delays in processing claims. Moving to modern methods like drones, satellite imagery and water-logging stations is required.

## 1.6 Issues with Sovereign Gold Bond Scheme

**Why in news?**

The Gold Bond scheme has attracted enough gold in the society despite handsome interest rate.

**What is the Sovereign Gold Bond Scheme?**

- The government of India recently launched a Sovereign Gold Scheme to provide an alternate option when it comes to owning gold.
- This scheme aims to reduce the demand for physical gold, thereby keeping a tab on gold imports and utilising resources effectively.
- With the Reserve Bank of India issuing these gold bonds, it brings in transparency and trust, providing an avenue wherein people can own gold without having to worry about its storage or safety.

**How does Sovereign Gold Bond Scheme operate?**

- Under the Sovereign Gold Bond Scheme, the Reserve Bank of India will issue the bonds on behalf of the Government of India.
- The bonds will be sold at post offices and banks and issued in denomination of gram.
- They will issue these bonds on payment of money. Later on, the bonds will be connected to the price of gold.
- From one person, the Sovereign Gold Bond Scheme would accept a minimum investment of 2 gm gold and a maximum investment of 500 gm in a single fiscal year.

**Why the scheme was introduced?**

- The gold demand rises in times of uncertainty or high inflation.
- Gold demand is mostly met through imports
- Years of high imports are ones of high current account deficits which, in turn, have weakened the rupee.
- So, in FY12, when India imported $56.5 billion of gold, the current account deficit increased to $78.2 billion.
- It peaked at $88.2 billion or 4.8% of GDP in FY13, when India imported gold worth $53.8 billion.
- It is to reduce this huge import bill that, in November 2015, the government tried to introduce gold bonds.

**What were the shortcomings?**

- Only 2% of the average gold consumption over the past five years or less than 6% of the average investment demand of gold has been substituted by gold bonds.

- This is because of the bad design of the product which did not take into account the reason people bought gold, apart from the anonymity.
- The bonds were bought/sold on the basis of the average price five days before the transaction.
- This ensured buyers/sellers lost out on the appreciation of gold.
- Similarly, there was a 5-year lock-in for the bond.
- Similarly to bring in market-makers to ensure greater liquidity for the bonds, they are listed on exchanges.
- It does not make sense to have a lock-in for the bonds.
- A more liquid market will ensure the bonds can be sold, but the lock-in will mean the price got for a sale will be discounted.

### 1.7 Bhamashah scheme

**What is the issue?**

- State governments perform well in their DBT schemes when compared with union government's schemes.
- Bhamashah scheme of Rajasthan government proves this scenario.

**What are the concerns with union government schemes?**

- The DBT deficits of the Union Government have increased, as the states have become spendthrift.
- There is also the burden of 40%-50% leakage of funds in the central government schemes.
- Not many states are doing well in terms of linking payments to Aadhaar numbers of citizens.
- The only exception is Rajasthan, whose Bhamashah scheme has done better than the union DBT.

**What is Bhamashah Scheme about?**

- The objective of the scheme is financial inclusion, women empowerment and effective service delivery.
- It is the first family based Direct Benefit Transfer scheme of India where each family is issued a 'Bhamashah Card'.
- The Card is linked to a bank account that is in the name of lady of the house who is the head of the family.
- The card leverages bio-metric identification and core banking.
- Multiple cash benefits would be accessed through the Bhamashah Card and will be directly transferred to bank accounts of the beneficiaries.
- Over three years, DBT transactions over the Bhamashah platform have crossed Rs 10,000 crore for purposes like pension payments, insurance, scholarships, housing, etc.

## 2. ACTS AND BILLS

### 2.1 Amendments to Ancient Monuments Act

**Why in news?**

Central government is planning to introduce amendments to "Ancient Monuments and Archaeological Sites and Remains Act, 1958".

**What are prohibited zones?**

- Ancient Monuments and Archaeological Sites and Remains Rules of 1959 for the first time noted a prohibited zone around protected sites.
- In 2010, the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act was passed.
- This legislation brought the prohibited and regulated zones around monuments within the ambit of the Act itself.

- A designated prohibited area means that at least within a 100-m radius of the monument, no new construction is allowed.

**What are the existing problems?**

- Around 5,00,000 are unprotected and endangered monuments.
- But only 3,650 monuments are nationally protected in a country.
- There are encroachments around monuments by government agencies and individuals.
- e.gThe 2013 CAG report noted that of the 1,655 monuments, 546 of them were encroached.
- It is mainly due to the severe lack of basic manpower in the form of monument attendants.
- More than 2/3rdof India's monuments that the Central government is supposed to protect were poorly guarded.
- Politicians have also protected those who have illegally occupied the prohibited zone around monuments.
- Heritage bye-laws for nationally protected monuments are yet to be prepared even after 6 years of passing the law.

**What is the new amendment?**

- The government is planning to dilute the 100 m prohibited area around nationally protected monuments.
- It aims to allow the Central government to construct within that area all kinds of structures.

**What is the importance of prohibited zones?**

- The above mentioned problems reveal that, at present, only solid protection to monuments comes from courts of law.
- Courts prevent constructions mainly using the legal provisions of prohibited zones.

## 2.2 National Commission for the Socially and Educationally Backward Classes

**Why in news?**

Parliament passed the 123rd amendment to the Constitution which will replace the existing National Commission for Backward Classes (NCBC) with a new constitutional body, named the National Commission for the Socially and Educationally Backward Classes (NCSEBC).

**How NCSEBC is different from NCBC?**

- NCSEBC will be a constitutional body (like the commissions for the Scheduled Castes and Tribes) rather than a statutory body, like the NCBC.
- Though this has less practical distinction, it could have important political implications.
- A modest agenda will limit itself to placing the NCSEBC on par with the National Commission for the Scheduled Castes (NCSC) and the National Commission for the Scheduled Tribes (NCST).
- This would require amendments to the Constitution, introducing additional Articles comparable to the existing Articles 338 and 338A (which establish the NCSC and NCST respectively), and 341 and 342.
- These changes shift responsibility for amending the list of Other Backward Classes (OBCs) from the government to Parliament.
- It also effectively takes away the power that the states currently have to determine their own OBC lists.

**What will be the impact?**

- This does not alter the basic rules of the game, namely the definition of the category "socially and educationally backward classes" and the existing limit of 50% on the total share of various reservation quotas.
- Now that Parliament would have to decide whether to grant OBC status, it would no longer be possible for opposition parties to stoke agitations without bearing responsibility for the consequences.

- The burden of handling the inevitable conflicts arising from a zero sum situation could also be shifted from the ruling party to Parliament.
- A Zero sum situation arises where the entry of new castes necessarily implies a decline in the share of castes already included.

**What are the shortcomings?**

- Parliament will determine who is a BC for the 'Central' List, not NCBC.
- New NCBC has no responsibility to define backwardness, so it cannot address the current challenge of well-off castes' demands to be included as BCs.
- Article 340 deals with the need to identify "socially and educationally backward classes", understand the conditions of their backwardness, and make recommendations to remove the difficulties they face.
- The 123rd amendment delinks the whole folio of backward classes from Article 340 and brings it closer to provisions related to SC/STs.
- The main shortcoming of the current NCBC is that it has no power "to hear the grievances" of the BCs.
- Curiously, the SC commission has become the gold standard for those demanding the new NCBC. If the new body is as incompetent as its role model, the nation will be spared of a lot of avoidable problems.
- The proposed system will treat the developmental issues related to BCs on a par with caste discrimination and untouchability suffered by SCs and even by STs.
- The new NCBC will hear grievances, inquire into complaints, summon officials given its powers as a civil court, issue directions and have the right to be consulted by both Union and the States on policy matters related to BCs.
- The whole business of inquiries into complaints, safeguards, recording evidence, etc. will result in the need to enact laws similar to the ones in existence for the protection of SC/STs.
- One is right to assume that BCs do face discrimination and exclusion and they deserve state support. But there is no justification to suppose that their conditions are as bad as those faced by the SC/STs.

## 2.3 Whistle Blowers Protection Act

**Why in news?**

- Whistleblower protect Bill was passed in 2014.
- More than 15 whistle-blowers have been murdered in India in the past three years.
- Instead of operationalising the WBP law, an amendment Bill, which fundamentally dilutes the law, was introduced in Parliament in 2015 by the government without public consultation.

**Who is a Whistleblower?**

- The 2014 law defines a whistleblower as any government official, common man or non-governmental organisation that exposes corruption in the government.
- The RTI law has empowered the common man to have access to information from public authorities which only government officials were earlier privy to, making every citizen a potential whistle-blower.

**What are the main features of WBP law, 2014?**

- The law affords protection against victimisation of the Whistleblower (like suspensions, withholding of promotions, threats of violence and attacks) who renders assistance in an inquiry.
- Whistleblowers could potentially use a wide range of information to expose corruption.

**What are the proposed controversial amendments?**

- The amendment Bill seeks to remove immunity provided to whistle-blowers from prosecution under the draconian Official Secrets Act (OSA) for disclosures made under the WBP law.
- It proposes that, complaints by whistle-blowers containing information which would prejudicially affect the sovereignty, integrity, security or economic interests of the state shall not be inquired into.

- It also states that, certain categories of information cannot form part of the disclosure made by a whistle-blower, unless the information has been obtained under the RTI Act.
- This includes what relates to commercial confidence, trade secrets which would harm the competitive position of a third party and information held in a fiduciary capacity.

**What are the consequences?**

- It will shun even genuine whistleblowers with a strong case for the fear of repercussions.
- Exposition of corruption made in domains like nuclear facilities or the Army will not be subject to inquiry (under the clause relating to national security).
- The move to restrict government employees from using certain information will drastically reduce their potential advantage of being an insider with privy information to expose corruption.
- The bill has been hastily passed in the Lok Sabha.
- To reconsider amendments that would fundamentally dilute the law, and provide an opportunity for public consultation, it is imperative that the Bill be referred to a select committee of the Upper House.

## 2.4 Indian Institutes of Management (IIM) Act, 2017

**Why in news?**

The Rajya Sabha has recently passed the Indian Institutes of Management (IIM) Bill, 2017 which was earlier passed by the Lok Sabha.

**What is the need for the bill?**

- The Indian Institutes of Management (IIMs) are autonomous institutes of management, education and research and are presently registered as societies under the Indian Societies Registration Act.
- It is governed by a Board of Governors.
- The government has been looking to grant more autonomy to these institutes and more powers have been granted to their Governing Boards.
- It also decided to lay down a clear rule on the line of succession in case the post of director falls vacant.

**What are the highlight provisions?**

- **Autonomy** - India has 20 Indian Institutes of Management in all, functioning as elite Business-schools.
- The legislation seeks to grant greater administrative, academic and financial autonomy to these IIMs.
- The institutes will be made free of government interference and will now be board-driven.
- Consequently, the power to appoint the chairperson as well as, the director will now lie with the board of the institutes.
- It means neither the HRD ministry nor the President of India will have any say in the selection of top executives and the faculty members.
- The government will also not have any say in the fees charged at these institutes.
- The Board will now reserve the power to review the performance of each IIM and will be the principal executive body.
- The bill also has provisions for the representation of SC, ST and women in the board of governors.
- **Degrees** - Until now, the IIMs have not been governed by an act of Parliament or overseen by the University Grants Commission (UGC).
- So they were awarding only postgraduate diplomas to its students.
- The legislation would make IIMs institute of national importance, granting them the power to award full-fledged degrees instead of diplomas.
- **Regulation** - The bill contains a provision for a "Coordination Forum of IIMs".
- But it will have limited power and will work as an advisory body.
- It will be a forum of 33 members, and its chairman will be selected by a search-cum-selection committee.
- The HRD minister will not head it.
- The central government may frame rules to give additional powers and duties to IIM boards.
- It will also decide on the terms and conditions of service of directors, although the appointments will be made by the boards.
- It will notify the IIM coordination forum to be headed by an eminent person.

- The accounts of the IIMs will now be audited by the Comptroller and Auditor General (CAG) of India.

**What are the shortfalls?**

- The bill is seen as a needed reform in the education sector.
- However, there is a concern that the government would control the IIMs via the coordination forum.
- Besides, the government is fails to clearly spell out the process of appointing the board of governors that will control IIMs now.
- The bill is also silent on any reservations in the faculty recruitment.
- There is also a concern with IIMs being granted the complete control over the fee structure.
- There are now demands for similar independence from government control to the Indian Institutes of Technology (IITs) and other top schools in the government and private sector.

## 2.5 Mental Healthcare Act 2017

**Why in news?**

The Mental Healthcare Act, 2017 was recently passed by Parliament.

**What are the provisions of the act?**

- Definition - It defines "mental illness" as a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life.
- It also includes mental conditions associated with the abuse of alcohol and drugs.
- It does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, characterised by sub-normality of intelligence.
- Rights - It ensures every person shall have a right to access mental health care and treatment from mental health services run or funded by the appropriate government.
- It assures free treatment for homeless or people Below Poverty Line, even if they do not possess a BPL card.
- It ensure right to live with dignity and there shall be no discrimination on any basis including gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class or disability.
- A person with mental illness shall have the right to confidentiality in respect of his mental health.
- Advance Directive - A person with mental illness shall have the right to make an advance directive i.e how he wants to be treated for the illness and who his nominated representative shall be.
- This should be certified by a medical practitioner.
- If a mental health professional/ relative/care-giver do not wish to follow the directive, he can make an application to the Mental Health Board to review the advance directive.
- Mental Health Authority - The Bill empowers the government to set-up Mental Health Authority at national and state levels.
- Every mental health institute and mental health practitioners will have to be registered with this Authority.
- A Mental Health Review Board will be constituted to protect the rights of persons with mental illness and manage advance directives.
- Mode of treatment - A medical practitioner shall not be held liable for any unforeseen consequences on following a valid advance directive.
- A person with mental illness shall not be subjected to electro-convulsive therapy without the use of muscle relaxants and anaesthesia.
- Also, electro-convulsive therapy will not be performed for minors.
- Sterilisation will not be performed on such persons.
- They shall not be chained under any circumstances.
- They shall not be subjected to seclusion or solitary confinement.

- Physical restraint may only be used, if necessary.
- Suicide - A person who attempts suicide shall be presumed to be suffering from mental illness at that time and will not be punished under IPC.
- The government shall have a duty to provide care, treatment and rehabilitation to a person, having severe stress and who attempted to commit suicide, to reduce the risk of recurrence of attempt to commit suicide.

## 2.6 HIV and AIDS Prevention Act, 2017

**Why in news?**

Parliament recently passed the Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) (Prevention and Control) Bill, 2017.

**What are the provisions of the act?**

- **Prohibition of discrimination -** The Bill lists the various grounds on which discrimination against HIV positive persons and those living with them are prohibited.
- These include the denial, termination, discontinuation or unfair treatment with regard to: employment, educational establishments, health care services, residing or renting property, standing for public or private office, and provision of insurance.
- The requirement for HIV testing as a pre-requisite for obtaining employment or accessing health care or education is also prohibited.
- Every HIV infected or affected person below the age of 18 years has the right to reside in a shared household and enjoy the facilities of the household.
- **Informed consent -** The Bill requires that no HIV test, medical treatment, or research will be conducted on a person without his informed consent.
- No person shall be compelled to disclose his HIV status except with his informed consent, and if required by a court order.
- Establishments keeping records of information of HIV positive persons shall adopt data protection measures.
- **Role of the government -** The central and state governments shall take measures to prevent the spread of HIV or AIDS, provide anti-retroviral therapy and infection management for persons with HIV or AIDS, facilitate their access to welfare schemes especially for women and children, formulate HIV or AIDS education communication programmes that are age appropriate, gender sensitive, and non stigmatizing, and lay guidelines for the care and treatment of children with HIV or AIDS.
- **Ombudsman** - An ombudsman shall be appointed by each state government to inquire into complaints related to the violation of the Act.
- The Ombudsman shall submit a report to the state government every six months.
- **Guardianship** - A person between the age of 12 to 18 years who has sufficient maturity in understanding and managing the affairs of his HIV or AIDS affected family shall be competent to act as a guardian of another sibling below 18 years of age.
- The guardianship will be apply in matters relating to admission to educational establishments, operating bank accounts, managing property, care and treatment, amongst others.
- **Court proceedings** -Cases relating to HIV positive persons shall be disposed off by the court on a priority basis.
- In any legal proceeding, if an HIV infected or affected person is a party, the court may pass orders that the proceedings be conducted (a) by suppressing the identity of the person, (b) in camera, and (c) to restrain any person from publishing information that discloses the identity of the applicant.

## 2.7 Maternity Benefit Amendment Act

**Why in news?**

- Parliament recently passed The Maternity Benefit (Amendment) Bill, 2016.

**What are the salient features of the bill?**

- The recently passed bill will amend the Maternity Benefit Act, 1961.
- It increases the paid maternity leave for pregnant women working in the organised sector from 12 weeks to 26 weeks.
- The 26 weeks of leave will be for the first two pregnancies.
- For the third child, it will be of 12 weeks and 6 weeks for the fourth.
- It allows 12 weeks of paid maternity leave to mothers who are adopting a child below the age of three months and also to commissioning mothers who opt for surrogacy.
- It mandates employers to allow a woman to work from home.
- Organisations which employ more than 30 women (or 50 people, whichever is less) will now have to provide a crèche.
- The mother is allowed to visit the crèche four times during the day.

**What are the positives?**

- The enhancement of paid maternity leave for women is a progressive step.
- India is in third place, only after Canada and Norway, in the level of maternity benefits such as paid time off work extended to women.
- The amendment is in line with several expert recommendations including that of the World Health Organisation, which recommends exclusive breastfeeding of children for the first 24 weeks.
- Giving benefits to adoptive mothers as well as women who get children using embryo transfers signals India is in step with social changes.

**What are the shortcomings?**

- The amended law covers only women in the organised work sector i.e only 1.8 million women, a small subset of women in the workforce.
- It ignores roughly 90% of the Indian women who are employed in the unorganised sector i.e shops, small service providers and cottage industries, in households as domestic helps etc.
- The only support available to them is a small conditional cash benefit of ₹6,000 during pregnancy and lactation offered under the Maternity Benefit Programme.
- The provision of the amendment excludes paternity leave. Therefore the benefit burden may discourage employers to hire women.
- Demands for inclusion of a non-discrimination clause in the bill were also made to ensure that no person is discriminated against for having availed any parental benefits.
- Currently, there are various labour laws that provide maternity benefits to women in different sectors. These laws differ in their coverage, benefits and financing of the benefits.
- The Second National Commission on Labour (2002) had recommended rationalisation of various labour laws with regard to providing social security, including maternity benefits.

**What is the present condition of women in India?**

- India lags far behind when it comes to maternal and infant mortality indicators.
- Every third woman in the country is undernourished and every second woman is anaemic.
- An undernourished woman is most likely to give birth to a low-weight baby.
- The UN Millennium Development Goals Report 2014 states that India recorded the highest number of maternal deaths, and accounted for 17% of global deaths due to pregnancy and childbirth-related complications.
- The Infant Mortality Rate is 40 per 1,000 live births.

- As per UNDP's Human Development Report 2015, women clock 297 minutes of unpaid work daily, compared to just 31 minutes for men.

**What should be done?**

- The income guarantees during the 26-week period should be ensured through a universal social insurance system.
- Such a policy would harmonise the varying maternity benefit provisions found in different laws that govern labour at present.
- Paternity leave should be included to stop discrimination against women in recruitment by employers who currently have to factor in benefit payments.
- Attitudinal change is also critical. Apart from not paying full benefits, many employers in corporate sector avoid appointing women in critical functions out of unwillingness to cope with women's life cycle changes, even seeking undertakings on avoiding pregnancy.
- Also the effectiveness of the revised Maternity Benefit Act depends on its proper implementation.

## 2.8 Medical Termination of Pregnancy Act

**Why in news?**

The Supreme Court recently declined a woman's plea to abort her 26-week-old foetus detected with Down's syndrome.

**What was the court's rationale?**

- It was contended that the congenital abnormality found in the woman's foetus and the woman's anguish about the future were the reasons for her decision of abortion.
- It was also argued that it was the woman's constitutional right to terminate her pregnancy.
- The court refused permission by calling the foetus 'a life'.
- It cited that the Medical Termination of Pregnancy Act of 1971 places a 20-week ceiling on termination of pregnancy.

**What is MTP Act, 1971?**

- Abortion in India is legal only up to twenty weeks of pregnancy under specific conditions and situations.
- One, the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury of physical or mental health, or
- Two, there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.

**Was the law challenged on any other occasion?**

- On 2015, a 14-year-old rape victim sought and received permission from the Supreme Court to abort after the 20 weeks deadline had passed.
- Her petition was treated as a "special case", meaning it could not be used as a precedent.
- On January 2017, the Judges had relaxed the 20-week cap to permit another woman to terminate her 24-week pregnancy.
- In that case the foetus was diagnosed with anencephaly — a congenital defect in which the baby is born without parts of the brain and skull.
- The court had said that the abortion was necessary to preserve the woman's life.
- In the case of the foetus with Down's syndrome, the court said the foetus posed no danger to the woman's life.

**What the draft MPT bill 2014 provides?**

- The draft MTP increased the legal limit for abortion from 20 weeks to 24 weeks.
- It provides for abortion beyond 24 weeks under defined conditions.

- The Bill amends Section 3 of the 1971 Act to provide that "the length of pregnancy shall not apply" in a decision to abort a foetus diagnosed with "substantial foetal abnormalities" or if it is "alleged by the pregnant woman to have been caused by rape".
- It also takes into account the reality of a massive shortage of both doctors and trained midwives, and seeks to allow Ayurveda, Unani and Siddha practitioners to carry out abortions.

**Why is it essential to change the MTP law?**

- Foetal abnormalities show up only by 18 weeks, so just a two-week window after that is too small for the would-be parents to take the difficult call on whether to keep their baby.
- Even for the medical practitioner, this window is too small to exhaust all possible options before advising the patient.
- There is an urgentneed to empower women with sexual rights, legal protrction against sex crimes and sex choices both in their own interest and for the sake of reducing the fertility rate as a whole.
- The lack of legal approval moves abortion to underground and they are done in unhygienic conditions by untrained professionals.

## 2.9 Issues with MPT Act, 1971

**Why in news?**

A Malformed baby was born to woman whose abortion plea was denied.

**Why did the woman approach the Supreme Court?**

- The couple found out about the anomaly in the foetus in the 24th week of pregnancy.
- The Medical Termination of Pregnancy Act, 1971, allows abortion **only up to 20 weeks**by medical practitioners for the following conditions –
    1. the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury of physical or mental health, or
    2. there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.
- So they approached the Supreme Court.
- The Supreme Court rejected the plea of the woman.
- Now the woman gave birth to a baby boy with the **Arnold Chiari Type II syndrome.**
- It leads to a malformed brain and spinal cord.
- The baby is now battling for life in a neonatal intensive care unit.

**What was the court's rationale?**

- SC rejected the plea of the woman to abort her pregnancy in the 27th week.
- It stated that the baby could be 'born alive' during the process of abortion.

**What the draft MPT bill 2014 provides?**

- The draft MTP increased the legal limit for abortion from 20 weeks to 24 weeks.
- It provides for abortion beyond 24 weeks under defined conditions.
- It provides that "the length of pregnancy shall not apply" in a decision to abort a foetus diagnosed with "substantial foetal abnormalities" or if it is "alleged by the pregnant woman to have been caused by rape".
- Under the 1971 Act, even pregnant rape victims cannot abort after 20 weeks, compelling them to move court.
- It allows a woman to take an independent decision in consultation with a registered health-care provider.

**Why is it essential to change the MTP law?**

- Foetal abnormalities show up only by 18 weeks.
- So just a two-week window after that is too small for the would-be parents to take the difficult call on whether to keep their baby.
- Even for the medical practitioner, this window is too small to exhaust all possible options before advising the patient.
- There is an urgent need to empower women with sexual rights, legal protraction against sex crimes and sex choices both in their own interest and for the sake of reducing the fertility rate as a whole.
- The lack of legal approval moves abortion to underground and they are done in unhygienic conditions by untrained, thus, putting thousands of women at risk.

## 2.10 Reforming the Protection of children act

**What is the issue?**

SC declined to apply the provisions of POSCO to mentally retarded adults whose mental age may be that of a child.

**What is POSCO?**

- The Parliament of India passed the 'Protection of Children against Sexual Offences Bill, 2011' regarding child sexual abuse.
- It defines a child as a person under age of 18 years.
- It encompasses the biological age of the child and silent on the mental age considerations.
- With respect to pornography, the Act criminalizes even watching or collection of pornographic content involving children.
- It mandates child-friendly procedures and features during the trial, taking into account her daughter's mental age, which she said was that of a six-year-old.

**What is the case?**

- The case before the court is related to the rape of a 38-year-old woman with cerebral palsy.
- Her mother was concerned about the absence of a friendly and congenial atmosphere before the trial court.
- She approached the courts for a direction to transfer the case to a special court under POCSO.

**What was the court's rationale?**

- It has ruled that it is outside its domain.
- It noted that there may be different levels of mental competence, and that those with mild, moderate or borderline retardation are capable of living in normal social conditions.
- To extend it to adult victims based on mental age would require determination of their mental competence.
- This would need statutory provisions and rules, which is to be done by the legislature.

**What are the other shortcomings of the act?**

- Section 29 of this law says that "the special court shall presume that the person prosecuted under sections of penetrative sexual assault has committed or attempted to commit the offence unless the contrary is proved".
- However, experience reveals that the prosecution is still asked to prove the case "beyond reasonable doubt".
- The law permits the medical examination of minor victims only with guardians' consent.
- If such consent is not granted, more emphasis needs to be laid on oral evidence.

## 2.11 The Rights of Persons with Disabilities Act

**Why in news?**

- The Rights of Persons with Disabilities Bill 2014, introduced in Lok Sabha in 2014, was passed in the Rajya Sabha in 2016.

**What is the Disability Bill,2014 about?**

- The draft legislation is based on the 2010 report SudhaKaul Committee, and will replace the Persons with Disabilities Act, 1995.
- The act was brought to comply with the UN Convention on Rights of Persons with Disabilities, to which India became a signatory in 2007.
- The 1995 Act recognised 7 disabilities - blindness, low vision, leprosy-cured, hearing impairment, locomotor disability, mental retardation and mental illness.
- The 2014 Bill expanded the definition of disability to cover 19 conditions, including cerebral palsy, haemophilia, multiple sclerosis, autism and thalassaemia among others.
- The Bill also allowed the central government to notify any other condition as a disability.
- Persons with at least 40% of a disability are entitled to certain benefits such as reservations in education and employment, preference in government schemes, etc.
- The Bill confers several rights and entitlements to disabled persons. These include disabled friendly access to all public buildings, hospitals, modes of transport, polling stations, etc.
- In case of mentally ill persons, district courts may award two types of guardianship. A limited guardian takes decisions jointly with the mentally ill person. A plenary guardian takes decisions on behalf of the mentally ill person, without consulting him.
- Violation of any provision of the Act is punishable with imprisonment up to six months, and/or fine of Rs 10,000. Subsequent violations carry a higher penalty and longer imprisonment.

**What are the changes made to the 2014 Bill?**

- The government brought 119 amendments to the Bill, and this legislation has been pending in the House since February 2014.
- Additional Categories - The amended version recognises two other disabilities i.e. resulting from acid attacks and Parkinson's disease, taking the number of recognized conditions to 21, and defines each one of them.
- It makes a special mention of the needs of women and children with disabilities, and lays down specific provisions on the guardianship of mentally ill persons.
- Establishment definition - The amendments also include private firms in the definition of 'establishments'. All such establishments have to ensure that persons with disabilities are provided with barrier-free access in buildings, transport systems and all kinds of public infrastructure, and are not discriminated against in matters of employment.
- Reservation - The 1995 law had 3% reservation for the disabled in higher education institutions and government jobs. The 2014 Bill raised the ceiling to 5%. But the amendments cut the quota to 4%.
- Imprisonment - It removed the jail term entirely, and only keep fines for breaking the law or discriminating against persons with disabilities.
- Reasonable Restriction- The proposed amended law defines discrimination as "any distinction, exclusion, restriction on the basis of disability" which impairs or nullifies the exercise on an equal basis of rights in the "political, social, cultural, civil or any other field".

**What are the issues?**

- Larger coverage - The 2011 Census put the number of disabled in India at 2.68 crore, or 2.21% of the population. This is a gross underestimation, especially in the light of the proposed amendments, which greatly widen the current Census definition of disability.
- The Bill makes a larger number of people eligible for rights and entitlements by reason of their disability, and for welfare schemes and reservations in government jobs and education.
- The amendments also dilute safeguards provided in the originally proposed Bill. When a greater number of disabilities are being brought under the purview of the Act, the percentage of reservation should go up proportionately, instead it has been reduced.
- Chief Commissioner - The amendments do away with the provision in the 2014 Bill for strong National and State Commissions for Persons with Disabilities, with powers on a par with a civil court.

- The chief commissioner has only recommending powers and there is no provision to ensure he or she too is a disabled person.
- Exception Clause - The exception clause to the discrimination is justified that certain jobs cannot be carried out by people with disabilities. However, every job has certain basic requirements, and no person with disability will apply for it unless he or she meets the criteria. Therefore this provision is unnecessary and paves way for extreme interpretations.
- The bill fails to specify the degree of disability for thalassaemia, learning disabilities or autism. Moreover, in India there are no suitable tools to quantify autism or learning disabilities.
- State Subject - Though it has the legal space under Article 253 to make a law to implement an international treaty, the question is whether it is appropriate for Parliament to impose legal and financial obligations on states and municipalities with regard to disability, which is a State List subject.

## 2.12 Admiralty Act, 2017

**Why in news?**

Admiralty (Jurisdiction and Settlement of Maritime Claims), Bill, 2017 was recently passed by the RajyaSabha.

**What is the aim of the bill?**

- Admiralty laws are those laws that deal with cases of accidents in navigable waters or involve contracts related to commerce on such waters.
- The Bill repeals laws such as the Admiralty Court Act, 1861, the Colonial Courts of Admiralty Act, 1890.
- It seeks to consolidate the laws relating to admiralty jurisdiction, legal proceedings in connection with vessels, their arrest, detention, sale and other related matters
- The bill was earlier passed by the LokSabha in March, 2017.

**What are the features of the bill?**

- **Admiralty jurisdiction -** The jurisdiction of maritime claims will vest with respective High Courts and will extend up to the territorial waters of their respective jurisdictions.
- The central government may extend the jurisdiction of these High Courts.
- Currently admiralty jurisdiction applies to the Bombay, Calcutta and Madras High Courts.
- So the further extend this to the High Courts of Karnataka, Gujarat, Orissa, Kerala, Hyderabad, and any other High Court notified by the central government.
- **Maritime claims -** The High Courts may exercise jurisdiction on maritime claims arising out of conditions including –
    1. disputes regarding ownership of a vessel,
    2. disputes between co-owners of a vessel regarding employment or earnings of the vessel etc.
- **Priority of maritime claims -** Among admiralty proceeding, highest priority will be given to maritime claims, followed by mortgages on the vessel, and all other claims.
- **Jurisdiction over a person -** Courts may exercise admiralty jurisdiction against a person with regard to maritime claims.
- However, it will not entertain complaints against a person in the following cases –
    1. damage, or loss of life, or personal injury arising out of collision between vessels that was caused in India, or
    2. non-compliance with the collision regulations of the Merchant Shipping Act, 1958 by a person who does not reside or carry out business in India.
- **Arrest of vessel -** The courts may order for the arrest of any vessel within their jurisdiction for providing security against a maritime claim which is the subject of a proceeding.

## 2.13 Amendments to Environment Protection Act

**Why in news?**

The Union government is planning to make changes to the Environment (Protection) Act of 1986.

**What are the present provisions?**

- The maximum fine that can be imposed on a polluting industry or other entities is Rs.1 lakh along with a jail sentence of up to five years.
- Even this requires the government agencies to first file a complaint with a magistrate at the district level and secure a favourable order against the polluter.
- At present, there are powers to shut down a polluting industry or an operation of a part of the industry temporarily.
- Currently, a violation of the Environment Protection Act is treated as a criminal offence.
- There is a felt need to have graded response to the pollution problem without everything ending up in court.

**What are the proposed changes?**

- The level of fines for a polluting industry from Rs.1 lakh to Rs.1 Crore to be increased.
- The fine is to be imposed without going through a judicial process prescribed in the current law.
- A designated officer would be the final authority to decide the money that needs to be recovered from the polluting entity.
- There is also a plan to make pollution a civil offence for which the government can demand costs from the polluters without going to the courts.

**What are the shortfalls?**

- The proposed changes lack understanding of why repeated attempts over the past failed to bring a change in pollution levels in the river. This includes the recent NamamiGange project's output.
- The river is a community asset and polluting it has disastrous health effects.This cannot be overlooked because a polluting industrial unit is happy to pay Rs.1 Crore.
- Undermining judicial review could give scope for official-polluter nexus, instead of reducing pollution.
- Change can start with more efficient execution of the existing rules than amending them or bringing new ones.

## 2.14 The Compensatory Afforestation Fund Bill, 2015

**Why in news?**

- The government recently notified draft rules for the Compensatory Afforestation Fund.
- Compensatory Afforestation Fund Bill was passed to fund

**What is the Compensatory Afforestation Fund bill about?**

- The Bill established the National Compensatory Afforestation Fund under the Public Account of India, and a State Compensatory Afforestation Fund under the Public Account of each state.
- These Funds will be primarily spent on afforestation to compensate for loss of forest cover, regeneration of forest ecosystem, wildlife protection and infrastructure development.
- And will be managed by the National and State Compensatory Afforestation Fund Management and Planning Authorities (CAMPA).
- The payment for these funds will be from
    1. Compensatory afforestation
    2. Net Present Value of forest (NPV)
    3. Other project specific payments

- The National Fund will receive 10% of these funds, and the State Funds will receive the remaining 90%.

**What is the significance of this fund?**

- More than Rs. 6,000 crores per annum to the States/UTs is made available for conservation, protection, improvement and expansion of forest and wildlife resources of the country.
- This fund will help the States/UTs and local communities to ensure better management of their forest resources but will also result in creation of direct employment especially in tribal dominated and backward areas.
- And a major part of the fund will be used to restock and improve quality of degraded forests, which constitutes more than 40 % of the total forest cover of the country.
- Apart from this, utilisation of the funds will result in increased availability of timber and other non-timber produces and help in improvement of the overall living standards of the forest dependent communities.

**What are the concerns with this bill?**

- The share of funds to states has increased from 10% to 90%, but State forest departments don't have the adequate planning & implementation capacity to carry out compensatory afforestation and forest conservation.
- Procuring land for compensatory afforestation is difficult as land is a limited resource, isrequired for multiple purposes and has unclear land titles.
- Previous initiatives for compensatory afforestation plantations have been a failure and the quality of forest cover has declined between 1951 and 2014.
- There is also an issue with the methodology used in the determination of NPV, as it constitutes half of the total funds collected.

## 2.15 Citizenship Amendment Bill, 2016

**Why in news?**

The Citizenship (Amendment) Bill, 2016, which was introduced in Lok Sabha is now before a Joint Parliamentary Committee.

**Who are illegal migrants?**

- One, if a foreigner comes into India without valid travel documents, like a visa and passport, or two, having come in legally, they stay beyond the time period permitted to them under their travel documents.
- Illegal migrants may be imprisoned or deported..
- The largest number among the illegal migrants are from Pakistan (15%), followed by Sri Lanka (14%), South Korea (6%) and Iraq (6%).

**What are the new amendments?**

- Illegal migrants and their children are ineligible for Indian citizenship under the Citizenship Act of 1955.
- The amendment Bill provides that illegal migrants belonging to the specified six minority communities i.e Hindu, Sikh, Buddhist, Jain, Parsi or Christian from Afghanistan, Bangladesh or Pakistan will not be treated as illegal migrants and will, therefore, be eligible for Indian citizenship.
- The Bill also relaxes the eligibility criteria for citizenship for persons from these six minority communities of the three neighbouring countries.
- As of now, a person must have resided in India for 12 of the 15 years preceding the date of application; the Bill relaxes the 12-year requirement to 7 years for this particular group of individuals.
- The Bill seeks to add a new ground for cancelling OCI registration — violation of any law in force in the country. OCI cardholders are foreigners who are persons of Indian origin.An OCI enjoys benefits compared to other foreigners, such as the right to travel to India without a visa, or to work and study here.

**What are the issues?**

- This amendment makes it easy to obtain India citizenship, for those fleeing religious persecution in mentioned three countries (Afghanistan, Pakistan and Bangladesh). But it has lot of negatives.
- The Bill does not cover illegal migrants who are Muslim, or who belong to other minority communities such as Jews and Bahais from Afghanistan, Bangladesh and Pakistan.
- The Bill makes illegal migrants eligible for citizenship on the basis of religion. This is in violation of Article 14 of the Constitution which guarantees right to equality and Article 15 of the Constitution which prevents the state from discriminating.
- This would mean, for instance, that the sizeable population of Hindu migrants from Bangladesh living in Assam would become citizens while Muslims who migrated to Assam from East Bengal, half a century ago would continue to be harassed as 'illegal migrants' from Bangladesh.
- India is not like Israel, which is a Jewish state, offering the "right to return" to Jews anywhere in the world. Since India is constitutionally secular, this amendment against its spirit.
- The Bill allows cancellation of OCI registration for violation of any law. This is a wide ground that may cover a range of violations, including minor offences like parking in a no parking zone.
- This Bill does not actually give citizenship to anybody. It only proposes to enable the post-1971 stream of non-Muslim migrants to apply for Indian citizenship via the route of naturalisation.

**How it violates Assam accord of 1985?**

- As per the Citizenship Act, a person whose name or whose ancestors name was registered as a citizen in the National Register of Citizens of India in 1951, is considered an Indian citizen.
- But in Assam, the rule is different. As per the Assam Accord, signed in 1985, people whose names were not registered as citizens till the year 1951 but are registered after that till 24 March, 1971, are also considered as Indian citizens.
- The proposed piece of new legislation seeks to extend this to December 31, 2014. There is a huge number of Bengali Hindu population living in Assam, who have migrated to Assam illegally.
- The new amendment of the Citizenship Act seeks to provide them with Indian citizenship. If that is done the demographic pattern of the state will transform. The natives will lose their political say in their own land.

## 2.16 Interstate Water Disputes Bill

**Why in news?**

Recently Union government introduced Inter-State River Water Disputes (Amendment) Bill 2017.

**What is interstate river water disputes act?**

- The Interstate River Water Disputes Act, 1956 (IRWD Act) is an Act of the Parliament of India enacted under Article 262.
- It is applicable only to inter-state rivers / river valleys.
- Supreme Court and other courts do not have original jurisdiction over such disputes.
- They can interpret verdicts of tribunals.
- When the tribunal final verdict issued based on the deliberations on the draft verdict is accepted by the central government and notified in the official gazette.
- The verdict becomes law and binding on the states for implementation.

**What are the problems in present set-up?**

- With increasing demand for water, inter-state river water disputes are on the rise.
- The present Inter State River Water Dispute Act, 1956 that provides the legal framework to address such disputes has many drawbacks.
- Under the present Act, a separate Tribunal has to be established for each dispute.

- There are eight inter-state water dispute tribunals, including the Ravi and Beas Waters Tribunal and Krishna River Water Dispute Tribunal. But only three of the eight tribunals have actually given awards accepted by the states.
- There is no time limit for adjudication or publication of reports.
- Tribunals like those on the Cauvery and Ravi Beas have been in existence for over 26 and 30 years respectively without any award.
- There is no upper age limit for the chairman or the members.

**What are the proposals of the new bill?**

- The bill proposes a single standing tribunal with multiple benches instead of multiple tribunals that exist at present.
- The total time period for adjudication of dispute has been fixed at maximum of 4.5 years.
- The decision of the Tribunal shall be final and binding with no requirement of publication in the official gazette
- As per the proposed bill, the Tribunal shall have one chairperson, one vice-chairperson and not more than six other members.
- It limits the tenure of the chairperson to five years or till they attain the age of 70, whichever is earlier.
- It also proposes to introduce mechanisms to resolve disputes amicably by negotiations through a Dispute Resolution Committee (DRC) before a dispute is referred to the tribunal
- DRC to be established by the central government consisting of experts.
- It also provides for a transparent data collection system at the national level for each river basin.
- It calls for the appointment of assessors to provide technical support to the tribunal.

**What are the provisions included in the amendment?**

- **Permanent body -** The bill proposes a permanent Inter-State River Water Disputes Tribunal (ISRWDT).
- In the current arrangement, tribunals are formed when a river water dispute arises.
- **Time bound -** The entire process is restricted to five-and-half years, taking into account all extensions, there is almost no limit on extensions in the current arrangement.
- **Specialized committee -** It provides for a Disputes Resolution Committee (DRC) to enable negotiated settlements.
- This is an interesting provision, evidently to avoid disputes advancing to the next stage of legal adjudication.
- **Data repository -** The other much touted provision for a data bank and information system.
- There is a similar provision in the current act as well, but it mandates the Centre to create such a repository.

**What is the shortcoming of the bill?**

- There are no clear mentioned provisions about speedy resolution of disputes.
- It doesn't fully recognise the need to plug holes in the interstate river water sharing, development and governance.
- In any case of data bank, the challenge is not about gathering data and information, but more about states agreeing over a particular piece of data.
- There are challenges in implementing the tribunal's awards.

## 2.17 DNA Draft Bill 2017

**What is the issue?**

The DNA draft Bill which seeks to streamline genetic profiling activities, has potential once approved.

**What is DNA draft bill?**

- The Law Commission of India submitted a draft of the DNA Based Technology (Use and Regulation) Bill, 2017 to the government in July.
- The DNA Bill seeks to regulate human DNA profiling and establish standard procedures for DNA testing.
- The draft Bill has substantially modified the earlier Bill and suggested various measures to fortify the use of uncontaminated DNA samples for investigation purposes and for identifying missing persons.
- Given that there are no appropriate legal mechanisms with regard to identifying missing persons, victims of disasters, etc.
- It proposed a Plan for Constituting a statutory body called the DNA profiling board and a DNA data bank.

**What is DNA profiling board?**

- The profiling board will undertake functions such as laying down procedures and standards to establish DNA laboratories and granting accreditation to such laboratories.
- It will also be responsible for supervising, monitoring, inspecting and assessing the laboratories.
- The Board will frame guidelines for training the police and other investigating agencies dealing with DNA-related matters.
- Its functions also include giving advice on all ethical and human rights issues relating to DNA testing in consonance with international guidelines.
- DNA profiling will be undertaken exclusively to identify a person and will not be used to extract any other information.

**What are the features of DNA data bank?**

- DNA data banks both nationally and on a regional basis in the States will be setup.
- The data bank will primarily store DNA profiles received from the accredited laboratories and maintain certain indices for various categories of data such as
    1. Crime scene index.
    2. Suspect's index.
    3. Offender's index.
    4. Missing persons' index
    5. Unknown deceased persons index - with a view to assisting families of missing persons.
- Strict confidentiality will be maintained with regard to keeping records of DNA profiles and their use.
- The DNA profiles shall be shared with and by foreign governments or government organisations or agencies only for the purposes enumerated in the Act.

## 2.18 The Treatment of Terminally Ill Patients Bill

**What is the issue?**

- Efforts to allow assisted suicide have gained traction around the world in the recent past, with Albania, Colombia and Germany having legalised it in various forms.
- Even in India, the debate over euthanasia and the interests of the state in preserving the life of persons is currently playing out in various fora.
- While the ethical implications of these acts have been debated, there is a need to debate how such a law would be operationalised.
- This will help to ensure the constitutionally guaranteed right to bodily integrity and autonomy, and to minimise misuse of the law.
- In this context, The Treatment of Terminally Ill Patients Bill, 2016 acts as a great starting point.

**What is Euthanasia?**

- It is the practice of intentionally ending a life in order to relieve pain and suffering.
- Passive euthanasia entails the withholding of common treatments, such as antibiotics, necessary for the continuance of life.
- Active euthanasia entails the use of lethal substances or forces, such as administering a lethal injection to kill, and it is controversial.

**What does the draft bill says?**

- According to the draft Bill, 2016, a terminally ill patient above the age of 16 years can decide on whether to continue further treatment or allow nature to take its own course.
- The Bill provides protection to patients and doctors from any liability for withholding or withdrawing medical treatment and states that palliative care (pain management) can continue.
- When a patient communicates her or his decision to the medical practitioner, such decision is binding on the medical practitioner.
- However, the draft also notes that the medical practitioner must be "satisfied" that the patient is "competent" and that the decision has been taken on free will.
- There will be a panel of medical experts to decide on case by case basis.
- The draft also lays down the process for seeking euthanasia, right from the composition of the medical team to moving the high court for permission.
- The Bill only augurs to legalize passive euthanasia, as discussed in the judgment pertaining to Aruna Shan baug.
- The Ministry said that active euthanasia is not being considered as it is likely to be used by unscrupulous individuals to attain their ulterior motives.

**What did the SC say?**

- In its judgments in the Aruna Shan baug and Gian Kaur cases, the Supreme Court has stated that the law currently only permits passive euthanasia.
- The administration of active euthanasia or assisted suicide would constitute attempts to commit or abet suicide under the Indian Penal Code, 1860.
- However, in both these judgments, the court stated explicitly that assisted suicide was only illegal in the absence of a law permitting it.
- Therefore, assisted suicide could be legalised if legislation was passed by Parliament to that effect.

**What does the new bill say?**

- This Bill is a bold and welcome step in many respects, and is a significant improvement over the draft Ministry Bill that it is based on.
- It moves away from decision-making based on the 'best interests' of the patient and recognises the right to die with dignity.
- It does not permit active euthanasia.
- Once the practitioner is satisfied that the patient is competent and has taken an informed decision, the decision will be confirmed by a panel of three independent medical practitioners.
- However, there is need to clearly think through some of the provisions in this Bill and the procedures it sets out.

**What are some the perceived flaws?**

- Like the draft Bill, it defines "terminal illness" as a persistent and irreversible vegetative condition under which it is not possible for the patient to lead a "meaningful life".
- The use of this subjective phrase would require second parties to decide whether a person in a permanent vegetative state is living a meaningful life.

- Persons with disabilities, in particular, are likely to be disadvantaged by such an understanding of "terminal illness".
- It also gives rise to the practical question of how a person in a permanent vegetative state will be able to self-administer the lethal dosage to commit suicide.
- In the case of incompetent patients, or competent patients who have not taken an informed decision about their medical treatment, the Bill lays down a lengthy and cumbersome process like asking permission from High Court and getting clearance from MCI, before any action can be taken for the cessation of life.
- Such a procedure is advisable for an act like assisted suicide which might be prone to abuse.
- However, it would be a violation of patient autonomy if it were applied to instances of merely withholding or withdrawing medical treatment.
- Decisions on such withdrawal must not tie up the medical practitioner and family of the patient in litigation.
- Further, given that the MCI has been plagued by corruption and incompetence, it is not advisable to place complete reliance on it. Rather, its role should ideally be limited to framing guidelines and providing guidance when requested.

## 2.19 Redrafted Bill on Passive Euthanasia

### Why in news?

The redrafted bill on euthanasia is released as the 'Management of Patients with Terminal Illness - Withdrawal of Medical Life Support Bill'.

### How did the legislation evolve?

- Passive Euthanasia is the withdrawal of medical treatment and life support of a terminally-ill patient to facilitate (natural) death.
- The Supreme Court had recognised passive euthanasia for the first time in the 2011 in Aruna Shanbaug case.
- Accordingly, withdrawal of life-sustaining treatment from patients not in a position to make an informed decision (incompetent case) is permitted.
- The SC further laid down comprehensive guidelines on passive euthanasia, which was to be followed until a law was enacted in this regard.
- Subsequently, government drafted the Medical Treatment of Terminally Ill Patients [Protection of Patients and Medical Practitioners]) Bill earlier in the year.
- But, given some concerns regarding the possible misuse of its provisions, the SC suggested adequate changes to ensure proper safeguards.
- It even recommended a proper medical board examination of all cases of euthanasia.

### What does the new bill provide for?

- **Approval Procedure -** Hospitals have to set up approval committees for considering cases of passive euthanasia.
- These panels will decide on applications of "Living will" which is a written document by a "competent" terminally ill patient.
- This will allow them to explicitly state their desire against life-prolonging measures when recovery is not possible.
- For incompetent terminally ill patients, unanimous consent of near relatives has been suggested to apply for withdrawal of medical treatment.
- **Other Provisions –** Any distortion of facts before such panels may lead to a maximum of 10 years in jail and a fine of up to Rs 1 crore.
- The draft provides for pain reducing medication (palliative care) even after passive euthanasia is approved.
- It clearly stated that it did not encourage active euthanasia which is the acceleration of death by using lethal means.
- The bill also provides for the protection of medical practitioners and care givers, by absolving them of guilt in acts of passive euthanasia.

## 2.20 National Medical Commission (NMC) Bill 2017

**What is the issue?**

- There is nationwide opposition to the proposed National Medical Commission (NMC) Bill 2017.
- With Lok Sabha sending it to the Parliamentary standing committee on health, the provisions need a serious rethink.

**What are the key provisions?**

- **Commission** - The NMC bill seeks to replace the Medical Council of India with National Medical Commission as the top regulator of medical education.
- The 20 members **National Medical Commission** will be at the top of a four-tier structure for regulation.
- NMC will comprise of a Chairperson, a member secretary, eight ex-officio members and 10 part-time members.
- Out of the 8 ex-officio members, four shall be presidents of the boards constituted under the act.
- The remaining four shall be nominees from three ministries viz. Health, Pharmaceuticals, HRD and one from Director General of Health Services.
- **Autonomous Boards** - The Bill sets up under the supervision of the NMC certain autonomous boards which are:
    i. the Under-Graduate Medical Education Board (UGMEB) and the Post-Graduate Medical Education Board (PGMEB)
    ii. the Medical Assessment and Rating Board (MARB)
    iii. the Ethics and Medical Registration Board
- Each board will consist of a President and two members, appointed by the central government.
- **Medical Advisory Council** - It will be a platform for the states/union territories to put forth their views and concerns before the NMC.
- Essentially, the Council will advise/make recommendations to and oversee the functions of the NMC.
- **Exam** - Students have to clear the common entrance exam NEET for MBBS.
- Besides, the **National Licentiate Examination** will be mandatory for medical graduates before practising/pursuing PG.
- Under specified regulations, the NMC can also permit a medical professional to perform surgery or practise medicine without qualifying the licentiate (exit) exam.
- **AYUSH practitioners** - On completion of a **bridge course**, practitioners of Indian systems of medicine, including Ayurveda and homoeopathy would be allowed to practise allopathy.
- The rationale is to address the shortfall of rural doctors by creating a new cadre of practitioners.
- **Private college** - The government, under the NMC, can dictate guidelines for fees up to 40% of seats in private medical colleges.
- This is aimed at giving students relief from the exorbitant fees charged by these colleges and is a standout feature of the bill.

**What are the contentions?**

- **Registry** - Graduates of Bachelor of Ayurvedic Medicine and Surgery, and Bachelor of Homeopathic Medicine and Surgery are already registered with their respective councils.
- The NMC registry, in addition to this, could result in dual registration, which is neither open nor permissible.
- **Corruption** - The bill aims to overhaul the corrupt and inefficient Medical Council of India.
- This is sought to be accomplished through an independent Medical Advisory Council.
- However all members of the Council are members of the NMC as well, thereby undermining the council's independence and its very purpose.

- **Bridge Course** - The provision has created widespread resentment among allopathy doctors.

**What could be done?**

- The government could empower existing doctors before integrating alternative-medicine practitioners into modern medicine.
- Notably, MCI regulations prevent even experienced MBBS doctors from carrying out procedures like caesarians and ultrasound tests.
- Also, nurses are barred from administering anaesthesia.
- An alternative would be to have a three-year diploma for rural medical-care providers, as earlier practised in Chhattisgarh.
- Graduates from such diploma courses could be allowed to provide basic care in under-served regions, to meet out the shortfall.

## 2.21 Indian Medical Council (Amendment) Bill

**What is the brief introduction on Indian Medical Council?**

- Medical Council of India (MCI)is an apex body with responsibility of establishing and maintaining high standards of medical education and recognition of medical qualifications in India.
- Functions of MCI include:
    1. Maintaining uniform standards of UG as well as PG medical Courses in India.
    2. Permission to start colleges, courses or increase the number of seats.
    3. Recognizing/derecognizing of medical degrees.
    4. Reciprocity with foreign countries in the matter of mutual recognition of medical qualifications.
    5. Registration of doctors to practice in India.
    6. Upholding the ethics in medical education and profession in India.

**Why was the MCI bill amended?**

- MCIfailed to create a curriculum that produces doctors suitable for Indian context, especially in rural / poor urban areas.
- There was no uniform standards of medical education across the country.
- Devaluation of merit in admission particularly in the private medical colleges due to prevalence of capitation fees in these colleges.
- Excessive focus was on the infrastructure and human staff without any substantial evaluation of quality of teaching, training and imparting skills in medical institutions.
- Also the MCI failed to raise the abysmally low doctor-population ratio which led to the geographical misdistribution of medical education in the country.
- All these causes and the recommendations of a parliamentary standing committee led to the amendment of MCI bill.

**What are the powers granted to MCI after amendment?**

- The amendment has provided MCI the power to frame regulations with regard to:
    1. The authority designated with the conduct of the exams,
    2. The manner of conducting the exams,
    3. Specifying languages other than English and Hindi in which the examinations may be conducted.

- These powers will help the body to regulate the medical education process which will improve the quality as well as quantity of efficient doctors in the country.

## 2.22 Child Abduction Draft Bill

**Why in news?**

- **The ministry o**f women and child development (WCD) has been working on an Act to bring Indian law in line with the Hague Conven**tion on the Civil Aspects of International Child Abduction, 1980.**

**What is Hague Convention?**

- Hague Abduction Convention is a multilateral treaty that provides an expeditious procedure to return a child internationally abducted by a parent from one member country to another.
- The contracting states will have to cooperate with each other in expeditiously sending back the runaway parent and the child to the country of the child's 'habitual residence'.
- However, a return order would not decide the issue of custody but would only ensure that the custody battle is settled in the jurisdiction of the country where the child has lived for most part of his life.

**What is the need for the bill in India?**

- In the absence of a domestic law on "inter-parental child abduction" in India, very often children of NRI's who have grown up abroad become silent victims of their parents' marital dispute when they are forcibly brought back by one of the parents.
- What are the provisions of the Draft Bill?
- The draft Bill would be applicable to all such cases of inter-country "parental abductions" where a child, less than 16 years old, is taken away from India by one of the parents without the consent of the other.
- The draft law mandates setting up of a central authority, to be headed by a joint secretary level officer, where an aggrieved parent can approach for the return of a child.
- The authority would have the power to decide all such cases.
- Makes an exception only in cases where the child has been taken away with consent or where returning the child poses some kind of grave risk to him or her.

**What are the factors to be considered?**

- In a majority of the cases, such children who have adapted to the culture of the country they are residing, find it difficult to cope up, when brought to India.
- Signing the convention will ensure enforcement of custody orders of foreign courts.
- To find the child, the coordination mechanism between law enforcement, the legal process and the new body proposed in the dradt bill is not clear.
- A 2014 Berkeley University study for the US Justice Department, records that a lot of women are fleeing unfavourable conditions. Forcing them to go back is not the solution.
- What are the recommendations by Law Commission?
- Recommends adding jail sentence and making the absconding parent pay for related proceedings.
- The Law Commission only makes an exception in cases where the parent, involved in the alleged wrongful removal or retention, did so in an attempt to escape from any act of domestic violence.

**What are its shortcomings?**

- Majority of those fleeing with children are women, it is not clear whether the penalisation, if findings of violence or abuse are inconclusive.
- A subsection allows for refusal to return the child to 'non-conducive' situations - But no further explanation is given of what these might be.
- The recommendations do not safeguard the rights of the weaker party — a person unable to cover costs of litigation abroad.

## 2.23 The Juvenile Justice Bill, 2015

**What is the bill on?**

- The Bill replaces the Juvenile Justice (Care and Protection of Children) Act, 2000.
- It addresses children in conflict with the law.
- It also has provisions for children in need of care and protection.

**What are the key provisions?**

- **Trial** - The three types of offences defined by the Bill are:
    i. heinous offence - that attracts a minimum penalty of 7 years imprisonment under any existing law
    ii. serious offence - that gets imprisonment between 3 to 7 years
    iii. petty offence - penalized with up to 3 years imprisonment
- Juveniles between the ages of 16-18 years will be tried as adults for heinous offences.
- Any 16-18 year old, who commits a lesser, i.e., serious offence, may be tried as an adult.
- But this is only if he/she is detained after the age of 21 years.
- Juvenile Justice Boards (JJB) and Child Welfare Committees (CWC) will be constituted in each district.
- **JJB** - The JJB will assess the child's mental and physical capacity, ability to understand consequences of the offence, etc.
- This is to determine whether a juvenile offender is to be sent for rehabilitation or be tried as an adult.
- Based on this assessment, a Children's Court will decide further.
- **CWC** - The Bill addresses children in need of care and protection.
- If an orphaned, abandoned or surrendered child is found, he/she is brought before a Child Welfare Committee within 24 hours.
- A social investigation report is conducted for the child.
- The Committee will decide to either send the child to a children's home or any other facility it deems fit.
- **Adoption** - CWC can also declare the child to be free for adoption or foster care.
- The Bill outlines the eligibility criteria for prospective parents.
- It also details procedures for adoption, and introduces a provision for inter-country adoption.
- **Besides**, penalties for the following have been prescribed:
    i. cruelty against a child
    ii. offering a narcotic substance to a child
    iii. abduction or selling a child

**What are the concerns?**

- **Deterrence** - There are differing views on whether juveniles should be tried as adults.
- It may not act as a deterrent for juveniles committing heinous crimes.
- On the other hand, a reformative approach will reduce the likelihood of repeating offences.
- **Constitution** - The provision of trying a juvenile as an adult based on date of apprehension could violate Article 14, Article 21.

- It also counters the spirit of Article 20(1) by according a higher penalty for the same offence, if the person is apprehended after 21 years of age.
- **UN provisions** -Under the UN Convention on the Rights of the Child every child under the age of 18 years should be treated as equal.
- The provision of trying a juvenile as an adult thus contravenes the UN Convention.
- **Discrepancy** - Some penalties provided in the Bill are not in proportion to the gravity of the offence.
- E.g. the penalty for selling a child is lower than that for offering intoxicating or psychotropic substances to a child.
- **Standing Committee** - The Standing Committee examining the Bill observed that it was based on misleading NCRB data.
- This is because the data was based on FIRs and not actual convictions, regarding juvenile crimes.
- It said that the approach towards juvenile offenders should be reformative and rehabilitative.
- It also observed that the Bill violates some constitutional provisions.
- These have been addressed by deletion of the relevant clause, at the time of passing the Bill in Lok Sabha.

**What are the shortfalls with the earlier Act?**

- The existing Juvenile Justice Act, 2000 was facing implementation issues and procedural delays with regard to adoption, etc.
- The National Crime Records Bureau (NCRB) data suggests an increase in crimes committed by juveniles.
- This is particularly in reference with those in the 16-18 years age group.
- The percentage of juvenile crimes (in proportion to total crimes) has increased from 1% in 2003 to 1.2% in 2013.
- Notably, the 16-18 year olds accused of crimes as a percentage of all juveniles accused of crimes increased from 54% to 66%.
- Under the 2000 Act, any child in conflict with law may spend a maximum of 3 years in institutional care (special home, etc.).
- The child cannot be given any penalty higher than 3 years, nor be tried as an adult and be sent to an adult jail.
- This is regardless of the type of offence committed.

**Quick Fact**

**Juvenile**

- In the Indian context, a juvenile or child is any person who is below the age of 18 years.
- However, the Indian Penal Code specifies that a child cannot be charged for any crime until he/she has attained 7 years of age.

## 2.24 The Surrogacy (Regulation) Bill

**What is Surrogacy?**

When an another woman carries and gives birth to a child for a couple who want to have a baby but are unable to do so, because of infertility or some other problem, it is called surrogacy. This has been in the grey legal area in India.

**What is the need for the bill?**

- In 2002, India became the first country to legalise commercial surrogacy.
- By 2012, India had become the 'surrogacy capital' of the world with surrogacy tourism valued at approximately $500 million annually.
- Surrogate mothers practice it as a way of earning livelihood and are often abused.
- Legal issues also emerge

- e.g In 2008, a Japanese couple began the process with a surrogate mother in Gujarat, but before the child was born they split and there were no takers for the child.
- In 2012, an Australian couple commissioned a surrogate mother, and arbitrarily chose one of the twins that was born.
- So the 228th report of the Law Commission of India recommended prohibiting commercial surrogacy.

**What is the aim of the bill?**

- It aims to prevent exploitation of women, especially those in rural and tribal areas.
- It prohibits couples who already have biological or adopted children from commissioning babies through surrogacy.
- It ensures parentage of children born out of surrogacy is "legal and transparent."
- What are the features of the Bill?
- The bill was introduced in Lok Sabha in November 2016.
- It bans commercial surrogacy.
- Commercial surrogacy will result in a jail term of at least 10 years and a fine of up to Rs 10 lakh.
- The commissioning couples should be Indians, should have been married for at least five years and should have 'proven infertility' are candidates.
- Only a married blood relative to the commission parents can be a surrogate mother. She must have herself borne a child, and should not be a NRI or a foreigner,
- Under no circumstances money shall be paid to her, except for medical expenses.
- She can be a surrogate only once in her lifetime.
- Overseas Indians, foreigners, unmarried couples, single parents, live-in partners and gay couples are barred from commissioning the services of surrogate mothers.
- In essence, the Bill limits the practice of surrogacy to heterosexual Indian couples who have been married for five years, have no children, and are able to persuade a relative to become a surrogate altruistically for them.
- The Bill will apply to the whole of India, except Jammu and Kashmir.

**What are the shortcomings?**

- Disqualifying on the basis of nationality, marital status, sexual orientation or age, is against the right to equality.
- The right to life includes the right to reproductive and right to parenthood. So the state should not decide the modes of parenthood
- Sudden interruption would just push the $400 million industry underground. Thus the very purpose of the bill- to protect surrogate mothers from exploitation would be defeated.
- Fertility specialists and attached business would suffer.
- Commissioning mothers, who are carrying a child, would be left in a limbo.
- Restricting only a blood relative to be a surrogate mother is illogical and unreasonable.

## 2.25 Muslim Women (Protection of Rights on Marriage) Bill, 2017

**What is the issue?**

- Lok Sabha has passed the Muslim Women (Protection of Rights on Marriage) Bill, 2017.
- The Bill is abound with a number of internal contradictions raising questions on the very purpose and intent.

**What are the highlight provisions?**

- **Definition** - The Bill defines talaq as talaq-e-biddat (instant triple talaq) or any other similar form of talaq pronounced by a Muslim man resulting in instant and irrevocable divorce.
- It makes all forms of declaration of talaq to be void i.e. not enforceable in law.

- **Offence and penalty** - The Bill makes declaration of talaq a cognizable and non-bailable offence.
- A husband declaring talaq can be imprisoned for up to 3 years along with a fine.
- **Allowance** - A Muslim woman against whom talaq has been declared is entitled to seek subsistence allowance from her husband.
- This applies to the woman and her dependent children.
- The amount of the allowance will be decided by the Magistrate.
- **Custody** - A Muslim woman against whom such talaq has been declared, is entitled to seek custody of her minor children.
- The determination of custody will be made by the Magistrate.

**What are the anomalies?**

- **SC judgement** - The Supreme Court, earlier, invalidated the triple talaq practice by calling it arbitrary and unconstitutional.
- Logically, the pronouncement of talaq-e-biddat does not dissolve the marriage, and this is the law of the land under Article 141.
- Contradictorily, the Bill presumes that the "pronouncement" of talaq can instantaneously and irrevocably dissolve the marriage.
- The bill thus seems to be misreading the SC's judgment on talaq.
- **Offence** - After rendering talaq-e-biddat inoperative, considering it a cognisable and non-bailable offence seems illogical.
- It raises questions on the validity of the law that criminalises an act after conceding that it does not result in a crime.
- **Post-divorce issues** - Making provisions on post-divorce matters like subsistence allowance and the custody, when the pronouncement (instant talaq) itself does not dissolve the marriage appear baseless.

**Why is this a case of over-criminalisation?**

- **Necessity** - Criminal law is not necessarily a choice but a necessity.
- It should be used only as a "last resort" and only for the "most reprehensible wrongs".
- Excessive use of criminal law for purposes it is ill-suited to tackle is the harsh reality of a modern state.
- **Morality** - The realm of private morality and immorality falls more within the individual and social sphere.
- Regulating it should largely come from the deliberations of the society and, making it the law's business may not bring in the desired effect.
- In this context, criminalising triple talaq would hardly help in building the moral commitments of Muslim husbands.
- It is not the function of a civilised legal system.

## 2.26 Transgender Persons (Protection of Rights) Bill

**Why in news?**

The Centre has decided to re-introduce the original Transgender Persons (Protection of Rights) Bill, 2016, without the adopting recommendations of the Parliamentary Standing Committee.

**How has the legislation evolved?**

- **SC ruling** - In February 2014, the Supreme Court passed a landmark judgement in the ***NALSA vs. Union of India case***.
- It recognised that transgender persons have fundamental rights, and paved the way for enshrining the rights of transgenders in law.
- The apex court deemed that individuals had the **right to the self-identification** of their sexual orientation.
- It also called for affirmative action for transgenders in education, primary health care and social welfare schemes.
- **Private Member Bill - Rights of Transgender Persons Bill, 2014**, was introduced as a Private Member's Bill in the Rajya Sabha by Tiruchi Siva.
- It was unanimously passed in the Rajya Sabha but was never debated in the Lok Sabha.
- The Bill passed in the Rajya Sabha had many progressive clauses.
- These include –
    i. the creation of institutions like the national and State **commissions for transgenders**
    ii. setting up **transgender rights courts**

- **Government Bill** – Following this, government drafted its own bill, Rights of Transgender Persons Bill, in 2015 and introduced it in the Lok Sabha in 2016
- The remedial measures to prevent sexual discrimination in private member bill were done away with by the government
- **Standing Committee** – As, the bill had many contentious provisions, it was sent to the standing committee on social justice and empowerment.
- **Reintroduction** - Ignoring the recommendations of the Standing Committee, the original version of the bill is set to be re-introduced now.
- This legislation seems to undermine their right to life and livelihood instead of safeguarding their interests.

**What are recommendations of standing committee?**

- **Definition** - The 2016 Bill identifies transgenders as being "partly female or male or a combination of female and male or neither female nor male".
- The ambiguity in the definition of the "third sex" lends itself to misinterpretation.
- Section 377 of the IPC that criminalises non-heterosexual sex draws many transgenders into its net.
- This definition is also departure NALSA judgment to identify transgenders outside the male-female binary.
- It is also against the 2014 bill's intention to cleanse society of the **stigma**.
- The Standing Committee draws attention to this inadequate definition which is founded on a heterosexual worldview.
- **Identification** - 2016 Bill mandates transgenders to submit themselves to a medical examination for recognition.
- This will be done by a District Screening Committee comprising of a Chief Medical Officer, a psychiatrist, a social worker, and a member of the transgender community.
- This is in stark contrast to the 2014 Bill that gives individuals the right to self-identify their sex and gender.
- **Social protection** - The central **reservation provision** in 2014 Bill of 'earmarking jobs for transgenders' is diluted in the 2016 Bill with 'equal opportunity in all spheres of life'.
- **Grievance redressal** - Establishments consisting of hundred or more persons is now mandated to designate a complaint officer to deal with any violation of the Act.
- This comes as a provision to replace the setting up of central and State transgender rights courts as prescribed in the 2014 Bill.
- Other recommendations like extending civil rights like marriage, divorce, and adoption to transgenders, including transgenders in workplace sexual harassment policies and counselling services to were also omitted by the Centre.

## 2.27 Drawbacks in Domestic Violence Verdict

**What is the issue?**

- SC recently gave its verdict on section 498A of the Indian Penal Code (IPC) which deals with domestic violence.
- The verdict has created resentment among women's rights activists.

**What are the concerns with the legislation?**

- There were opinions that complaints under section 498A were being filed on the basis of personal vendetta.
- But the conviction rate of cases registered under Section 498A IPC was also a staggering low at 15.6%.

**What are the directives in the court's verdict?**

- It directed police and magistrates that there would be no automatic arrests or coercive actions arising out of complaints lodged.
- Instead actions should follow only after ascertaining the validity of the complaints.
- The verification of the complaints shall be carried out by a special police officer and a district-level Family Welfare Committee.
- The court, however, has assured that grave physical injury or death of the aggrieved person would be exceptions to this directive on verification.

**What are the drawbacks?**

- The scope of the word 'cruelty' underlined by the bench has no quantitative indicators to be validated by an external Family Welfare Committee.
- Its leaves the responsibility to test the truthfulness of the complaints on arbitrary personalities in the Family Welfare Committee who are likely to be influenced by patriarchal mindsets.
- By creating the Family Welfare Committee, the court creates one more layer between the victim and the justice system, and as a result, her access to justice is compromised.
- Moreover, the creation of an intermediate body suggests that the judiciary does not trust the very beneficiaries of this legal provision.
- Exceptions to the directive such as grave physical violence or death, implies that mental torture, emotional or sexual violence are disregarded.
- The court has made an observation that filing complaints would affect the later reunion of the couple as also the reputation of the husband and the family.
- This sends a wrong message that would encourage women to shy away from lodging complaints to protect the honour of the family.
- It expects woman to internalise and normalise violence in private spaces for matrimonial relationships, which strongly goes against the idea of gender equality.
- The naming as 'Family' Welfare Committee places family above individual woman's rights, dignity or agency that the provision is meant for.

## 2.28 Banking Regulation (Amendment) Bill, 2017

**Why in news?**

Recently, Banking Regulation (Amendment) Bill has been passed in Rajya Sabha.

**What is present status of banking and its reforms?**

- Steel, Infrastructure, Power and Textiles are the sectors with the most NPAs.
- Public sector banks were hit the most as big industrial and infrastructure programmes were supported by them in the hope that there would be further expansion.
- The capacity to banks to lend money to small creditors is being impacted, the growth is impacted
- Non-performing assets (NPA) were growing because of accumulated interests.
- Along with the stressed assets, they amounted to over ₹8 lakh crore.
- Earlier rules for debt recovery were time-consuming, IBC 2016 The new parallel mechanism was more effective.

**What are the highlights of the bill?**

- The Bill, earlier passed by the Lok Sabha, will replace the Banking Regulation (Amendment) Ordinance, 2017.
- It empowers the Reserve Bank of India to issue instructions to the banks to act against major defaulters.
- It empowers the RBI to resolve the problem of stressed assets.
- It allows the RBI to initiate insolvency resolution process on specific stressed assets.
- The RBI will also be empowered to issue directives for resolution and appoint authorities or committees to advise the banking companies on stressed asset resolution.
- The recovery proceedings will be carried out under the Insolvency and Bankruptcy Code, 2016 that provides for a time-bound process to resolve defaults.
- Powers are being offered to the RBI as, it also performed other functions like public debt management earlier.

- In the case of wilful defaulters their names will be made public.
- Only in cases of normal commercial transactions were the names not made public.

**What actions are taken by RBI?**

- RBI's internal advisory committee has already identified 12 large stressed cases, for proceedings under the insolvency and bankruptcy code.
- Subsequently, the central bank advised banks to set aside 50% provisioning against secured exposure and 100% against unsecured exposure in all cases referred for bankruptcy.
- Action under the Insolvency and Bankruptcy Code has already begun in certain cases, including Essar Steel, Bhushan Steel and Bhushan Power & Steel.
- Critics also feel that giving such powers to the RBI will switch its attention from macro-economic issues to micro-economic issues and render the bank management useless.

## 2.29 The Benami Transactions (Amendment) Act, 2016

**What is the act about?**

- It amended the Benami Transactions Act, 1988.
- The Act prohibits benami transactions and provides for confiscating benami properties.

**What are the provisions?**

- **Change in definition** - The 1988 Act defines a benami transaction as a transaction where a property is held by or transferred to a person but has been provided for or paid by another person.
- 2016 Act amends this definition to add other property transactions where

i) the transaction is made in a fictitious name,

(ii) the owner is not aware of denies knowledge of the ownership of the property,

(iii) the person providing the consideration for the property is not traceable.

- It defines **benamidar** as the person in whose name the benami property is held or transferred, and a beneficial owner as the person for whose benefit the property is being held by the benamidar.
- **Adjudicating Authority**–It established four authorities to conduct inquiries or investigations regarding benami transactions.
- **Appellate Tribunal** – There will be an Appellate Tribunal to hear appeals against any orders passed by the Adjudicating Authority.
- Appeals against orders of the Appellate Tribunal will lie to the high court.
- **Penalty** – 2016 Act increased the penalty for entering into benami transactions.
- Under the 1988 Act, the penalty is imprisonment up to three years, or a fine, or both.
- 2016 Actchanged this to **rigorous imprisonment** of 1 year up to 7 years, and a fine which may extend to 25% of the fair market value of the benami property.
- It also specifies the penalty for providing **false information** to be rigorous imprisonment of 6 months up to 5 years, and a fine extend to 10% of the fair market value of the benami property.
- **Special courts** - Certain sessions courts would be designated as Special Courts for trying any offences which are punishable under the act.

**What are the impacts?**

- The Act is certainly a very comprehensive piece of legislation and very stringent.
- There could be scope for harassment but how that plays out remains to be seen.

- The act is seen as the next step in the battle against black money.
- However, the Act only has post-facto effect that is after benami transactions have happened.
- There is a need to pre-empt and eliminate such transactions.
- Making mandatory online registration of all immovable properties as well as linkage of Aadhar number and PAN of all the parties will help.
- The **Parliamentary Standing Committee on Finance**has expressed concern at genuine transactions being labelled benami because of lack of clear titles, especially in rural areas.
- The Committee also suggested that the registration authorities share information with other government authorities like the income tax department.
- It also recommended digitisation and regular updating of land records.

## 2.30 National Bank for Agriculture and Rural Development (Amendment) 2017 Bill

**Why in news?**

National Bank for Agriculture and Rural Development (Amendment) 2017 Bill was passed recently.

**What are the functions of NABARD?**

- NABARD is an apex development bank for promoting agriculture and rural development.
- Its main function is to
    1. Provide finance and also refinance for production and marketing in the rural areas.
    2. Coordinate and advise the operations of institutions engaged in rural credit.
    3. Promote research in agriculture and rural development.
- NABARD regulates the financial institutions under it, such as the State Co-operative Banks, the Regional Rural Banks and other financial institutions as may be approved by the RBI.
- It is also responsible for coordinating with the Government of India, State Governments and other agencies concerned with the development of rural industrialization.
- And ensures the implementation of various policies and programs meant for providing finance to the rural industries.

**What was the need of this amendment?**

- This amendment was initiated to increase the capital of NABARD to achieve the objective of Doubling Farmers Income.
- Also, NABARD Act had to be modified in consensus with the Companies Act, as well as the terms in MSME Development Act.
- Most importantly, this amendment was made to reduce the twin burden of RBI as investor and regulator of NABARD to only regulator by transferring shares held by RBI to the government.

**What are the provisions added by the amendment act?**

- Increase in Capital - The Bill allowed the union government to increase the paid up capital of NABARD to Rs 30,000 crore or if necessary it can be increased more but in consultation with RBI.
- Transfer of shares – The bill has allowed for transferring the shares held by RBI to the union government, so the government holds atleast 51% of total share capital of NABARD.

- MSME –The Bill has replaced the terms small scale industry and industry to micro, small and medium enterprise in consensus with the MSME Development Act, 2006.
- NABARD becomes responsible for providing credit to industries having an investment of upto Rs 10 crorein the manufacturing sector and Rs.5 crore in the services sector.
- Consistency with the Companies Act, 2013 – The amendment has also altered NABARD bill to be in consistency with the updated Companies Act, 2013.

## 2.31 The Financial Resolution and Deposit Insurance Bill

**Why in news?**

The Financial Resolution and Deposit Insurance Bill, 2017 (FRDI Bill) was recently introduced in the Parliament. But it has raised concerns among depositors on how they would be repaid in case of liquidation of banks.

**What is the aim of the bill?**

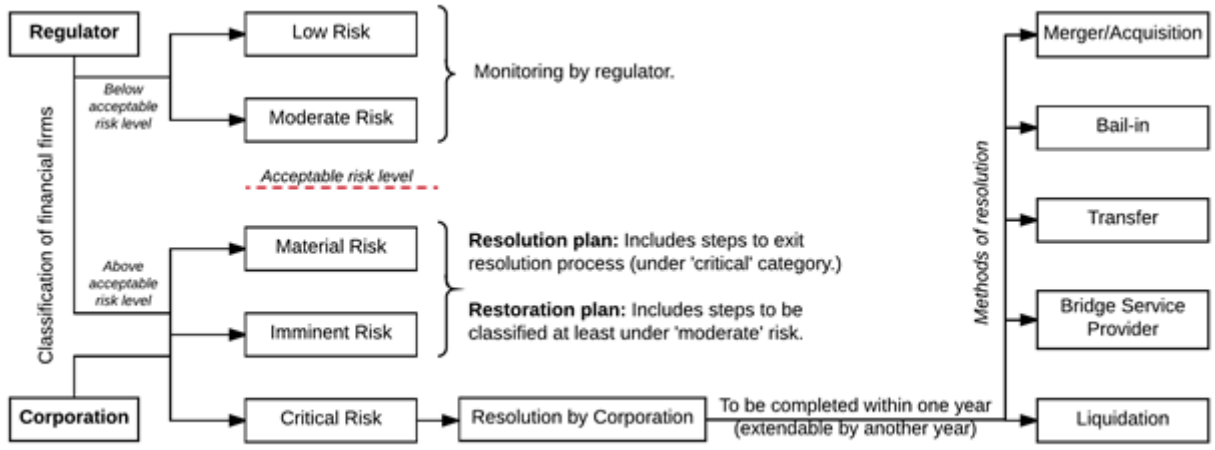
- The FRDI Bill is aimed at insuring the money of a bank's depositors in the case of an eventuality where the bank would have to be liquidated.
- Failure of a bank has repercussions that go well beyond savings and lending, it has an impact on the systemic stability of a country.
- Thus the bill aims to limit the fallout of the failure of institutions like banks, insurance companies, non-banking financial companies, pension funds and stock exchanges.
- It is currently pending before a Standing Committee of Parliament.

**What is the existing method of Resolution?**

- The Deposit Insurance and Credit Guarantee Corporation (DICGC) is an RBI subsidiary, established in 1971.
- In case a stressed bank had to be liquidated, the depositors would be paid through DICGC.
- It insures all kinds of bank deposits up to a limit of Rs.1 lakh.
- It is mandatory for banks to pay a sum to the DICGC as insurance premium.

**What are the provisions in the current bill?**

- It seeks to create a consolidated framework for the resolution of financial firms.
- Under this, the central government will establish a Resolution Corporation in this regard.
- **Resolution Corporation -** It will have aChairperson and its members will include representatives from the **Finance Ministry, RBI, and SEBI, among others**.
- **Mandates** - The Corporation will:
    1. Provide deposit insurance to banks
    2. Classify service providers based on their risk
    3. Undertake resolution of service providers in case of failure
- It may also investigate the activities of service providers, or undertake search and seizure operations if provisions of the Bill are being contravened.
- **Risk based classification -** The Corporation, in consultation with the respective regulators specify criteria for classifying service providers based on their risk of failure.




- A service provider categorized under the 'imminent' or 'critical' category will submit a restoration plan to the regulator, and a resolution plan to the Corporation.
- These plans will contain information, including:
  i. details of assets and liabilities
  ii. steps to improve risk based categorization
  iii. information necessary for resolution of the service provider


- **Administration -** The Corporation will take over the management of the service provider from the date it is classified as 'critical'.
- **Resolution -** The resolution of a service provider classified under the 'critical' category can be done using
  1. Transfer of its assets and liabilities to another person
  2. Merger or acquisition
  3. Creating a bridge financial
  4. Bail-in
  5. Liquidation
- **Bail –in** - The bill proposes 'bail-in' as one of the methods to resolution.
- Accordingly, banks **issue securities** in lieu of the money deposited, which may work against the depositors.
- **Time limit -** The service provider will automatically be liquidated if its resolution is not completed within the maximum time period of two years.
- **Liquidation and distribution of assets -** The Corporation will require the approval of the **National Company Law Tribunal** to liquidate the assets of a service provider.
- **Offences -** The Bill specifies penalties for offences such as concealment of property, and destruction or falsification of evidence.

**What are the concerns in the proposed bill?**

- According to Section 52 of the proposed Bill, depositors will lose their rightful claim to retrieve their savings in case of liquidation of banks and insurance companies.
- It does not specify the fixed insured amount to be paid by the bank to the resolution corporation.

- It does not even specify the amount a depositor would be paid in case of liquidation.
- It is given that corporation may decide on the compensation in case of any bank failure, which could well be less than Rs. 1 lakh.
- It also proposes 'bail-in' as one of the methods to resolution, where the banks issue securities in lieu of the money deposited.
- In the past, the bail-in efforts had largely worked against depositors.
- The ambiguities on how the depositors would be repaid needs to be addressed.
- Thus, there is a need to enhance insurance cover on deposits which should ideally continue to be managed by the RBI.

**What are the Positives?**

- **Resolution Corporation -**The Bill brings in a system of risk-based monitoring of financial institutions.
- At the stage of 'critical' risk to viability, the proposed Resolution Corporation is empowered to takes all the decision not the banks.
- The Resolution Corporation can use "bail-in" clause **only in consultation with the regulator (RBI).**
- **Curtailing the power -** During global financial crisis 2008, governments used tax-payer money was used to recapitalise the banking industry.
- The Bill makes it explicitly clear that only such liabilities may be cancelled where the liability/instrument contains a bail-in provision.
- **Transparent -**It makes it clear that the Resolution Corporation will specify the liabilities to be bailed in and that will be put up in the public domain before finalisation.
- Creditors/depositors will need to consent in advance to have their liabilities bailed-in.
- **Accountable -**Even when liabilities are being bailed in, the Bill makes it incumbent upon the Resolution Corporation to follow the prescribed route.
- Here, uninsured depositors are placed higher over unsecured creditors and amounts due to the Central and State governments.
- **Guaranteed compensation -** FRDI Bill gives aggrieved persons a right to be compensated by the Resolution Corporation if any of the safeguards have not been followed during a bail-in or in the conduct of any other resolution action.

## 2.32 Insolvency and Bankruptcy Code (Amendment) Bill 2017

**Why in news?**

The Insolvency and Bankruptcy Code (Amendment) Bill 2017 was introduced in the Lok Sabha to replace an earlier ordinance.

**What is Insolvency and Bankruptcy Code, 2016?**

- The Insolvency and Bankruptcy Code (IBC) was enacted in 2016 to facilitate a time-bound resolution for ailing and sick firms.
- It could either be through closure or revival, while protecting the interests of creditors.
- Under IBC, either the creditor (banks) or the loaner (defaulter) can initiate insolvency proceedings.
- It is done by submitting a plea to the adjudicating authority, in this case, the National Companies Law Tribunal (NCLT).
- The resolution process was expected to aid in reducing the rising bad loans in the banking system.

**What are the problems in IBC 2016?**

- There was a concern that the resolution process could leave scope for the defaulters to take advantage of the situation.
- Notably, the provisions allowed them to come back into the management by paying a fraction of the defaulted amount.
- Addressing this, an ordinance was brought in later (2017), which prevented unscrupulous promoters from misusing the provisions of the IBC.
- It thus barred from participating in the resolution process, the following:
    i. wilful defaulters
    ii. defaulters whose dues had been classified as NPAs for more than a year
    iii. all related entities of these firms
- Consequently, many entities that acquired distressed assets were disqualified from the bidding process, as these were classified as NPAs.
- Similarly, banks opting to convert their debt into equity under the RBI's restructuring scheme would have become promoters of these insolvent companies.
- And hence these have also been barred from the resolution process.
- These anomalies called for changes to make the debt resolution process easier and more efficient.

**What are the important provisions of the bill, 2017?**

- The amendment bill will replace the earlier ordinance on the Insolvency and Bankruptcy Code.
- It has addressed concerns about some of the stringent provisions in the ordinance and seeks to streamline the law and plug loopholes.
- Accordingly, now, wilful defaulters and existing promoters can become eligible to **submit aresolution plan** if they repay their dues and make their bad loans operational.
- Also, defaulters who had participated in the insolvency proceedings before the enactment of the ordinance can also **bidfor stressed assets** provided they clear their dues in a month.
- Notably, these promoters were earlier barred from taking part in the resolution process of the companies.
- It also allows guarantors of insolvent firms to bid for other firms under the insolvency process.
- Further, asset reconstruction companies, alternative investment funds (AIFs) such as private equity funds and banks can now participate in the bidding process.
- The bill thus seeks to strike a balance in the trade-off between punishing wilful defaulters and ensuring a more effective insolvency process.
- The bill also seeks to bring any individual who was in control of the NPA under the ambit of the insolvency code.
- It lays out that the individual insolvency law will be implemented in phases.
- **Concerns -** The law thus does not recognize promoters facing genuine operational or financial difficulties because of external factors.
- These factors for defaulting should also be recognised and resolutions provided for, to help bring the economy back on track.

## 2.33 Consumer Protection Amendment Bill

**What is the issue?**

- Centre had approved a new Consumer Protection Bill in 2015 to replace the Consumer Protection Act, 1986.
- Government has recently made many changes to the bill based on the recommendations of the Parliamentary Standing Committee.
- This reworked bill is pending for a long time, the demand for clearing which is rising.

**What have necessitated an amendment?**

- The earlier legislation was not keeping pace with the **new market dynamics**, multi-layered delivery chains, and often misleading **advertising** and marketing machinery.

- Need for new provisions to deal with the fast changing technological and market dynamics, **e-commerce** being the latest.
- The Act doesn't grant the authority to proceed against any person guilty of a violation under the Act. Penal steps could be taken only through a judicial process before the State or District Consumer Redressal Forums.
- These forums are plagued by administrative issues, and consumers are being made to suffer for an average of five years to get their grievances redressed.

**What are the provisions of the new bill?**

- The new Bill includes the establishment of an **executive agency**, the Central Consumer Protection Authority (CCPA), which will protect and enforce the rights of consumers.
- The new bill includes stringent provisions to tackle misleading **advertisements**, as well as to fix liability on endorsers and celebrities.
- The new Bill contains an enabling provision for consumers to **file complaints electronically.**
- The Bill has a provision for **product liability** and provides enough powers to the regulatory authority to recall products and cancel licences if a consumer complaint affects more than one individual.
- The powers to take action for damage caused by a product will act as a deterrent for manufacturers since the liability quotient has increased.
- Provisions aimed at simplifying the **consumer dispute resolution** process include,
    1. enhancing the pecuniary jurisdiction of the Consumer Grievance Redress Agencies.
    2. powers to State and District Commissions to review their orders.
    3. setting up a 'circuit bench' in order to facilitate quicker disposal of complaints.
- The Bill also proposes to set up **Consumer Mediation Cells** which will be attached to the redressal commissions at the district, State and national levels. This will further help reduce the backlog of cases and lessen the strain on redressal forums.

## 2.34 Minimum Wage Code Bill

**Why in news?**

The Union Cabinet has approved the new wage code bill.

**What is the bill about?**

- It will ensure a minimum wage across all sectors by integrating four labour related laws.
- It will consolidate the Minimum Wages Act, 1948; the Payment of Wages Act, 1936; the Payment of Bonus Act, 1965; and the Equal Remuneration Act, 1976.
- It signals a formal start of the process of consolidating 44 labour laws into four codes.
- At present, every state decides the minimum wage for different industries and labour classifications.
- The bill seeks to **empower the Centre to set a minimum wage across all sectors** in the country and states will have to maintain that.
- States will not be able to pay less than the national floor; however, states will be able to provide for higher minimum wage in their jurisdiction than fixed by the central government.
- At present, the minimum wages fixed by the Centre and states are applicable only to workers getting up to Rs 18,000 pay monthly.
- The new minimum wage norms would be applicable for all workers irrespective of their pay.
- The proposed legislation is expected to benefit over 4 crore employees across the country.

**What are the concerns with the code?**

- It seeks to expand the reach of minimum wage regulation to non-formal jobs. The **scope for intervention** in business by government inspectors has thus been vastly **increased**.
- The code assumes a **single national floor for wages** for a country as diverse as India, with so many variations to costs of living.This ignored local and sectoral conditions.
- Such regulations have often resulted in the **decrease of the number of such jobs.**
- The code looks less like labour law reform and more like another entitlement which could be counter-productive to the intended aims.

## 2.35 Gratuity Amendment Bill

**Why in news?**

The Union Cabinet has given approval to the introduction of the Payment of Gratuity (Amendment) Bill, 2017.

**What is gratuity bill?**

- Gratuity is a sum of money paid to an employee at the end of a period of employment.
- The Payment of Gratuity Act, 1972 applies to establishments employing 10 or more persons.
- It considers the inflation and wage increase even in case of employees engaged in private sector.
- With implementation of 7th Central Pay Commission, in case of Government servants, the ceiling now is Rs. 20 Lakh, whereas the present upper ceiling on gratuity amount under the Act is Rs. 10 Lakh.
- There will be also an additional 1% dearness allowance that is from 4% to 5%, applicable from July 1, 2017, to all central government employees and pensioners.
- And it also seeks to double tax-free gratuity for private sector.
- The gratuity will be completely tax free if the bill approved by the cabinet gets passed in the parliament.

**How does this benefit workers?**

- Gratuity is not just paid to the employee on his retirement as commonly perceived.
- The gratuity rules are lenient, it can be paid at any of these cases if claimed
    1. If employee has tendered his resignation after serving the organisation for continuous five years,
    2. On his death, even if the employee hasn't served the organization for five years.
    3. If employee becomes disabled due to accident or disease.
- The main purpose for enacting this act is to provide social security to workmen after retirement.
- The amendment will increase the maximum limit of gratuity of employees, in the private sector and in Public Sector Undertakings/ Autonomous Organizations under Government, who are not covered under CCS (Pension) Rules, at par with Central Government employees.

**What will be the financial impacts?**

- The combined impact on the exchequer on this account would be ₹3,068.26 crore a year and ₹2,045.50 crore in 2017-18.
- Earlier, employers could limit their liability to the statutory cap of ₹10 lakh even if the calculation of gratuity for an eligible employee resulted in a higher figure but the limitation has been expanded.
- Many industries would be impacted if this proposal becomes the law, due to extra financial burden.

## 2.36 Major Port Authorities Bill

**Why in news?**

- The Standing Committee on Transport, Tourism and Culture has submitted its report on the Major Port Authorities Bill, 2016.
- The Bill repeals the Major Port Trusts Act,1963 and seeks to provide greater autonomy and flexibility to major ports.

**What are the major recommendations?**

- **Port governance structure** - The Bill provides for the creation of a Board of Major Port Authority for each major port.
- Under the 1963 Act, all major ports are managed by the respective Board of Trustees.
- It noted that the Bill provides the government more flexibility and power to allow private players in the port sector.
- It recommended that the Ministry should address stakeholder concerns regarding the possible full **privatisation** of ports in future.
- It advised the Ministry to ensure that the administrative, managerial and financial control of the port remains with the Board of Major Port Authority.
- **Board Composition** - Other than the Chairperson and deputy Chairperson, the committee recommended having others members in the Board of Port Authority.
- These include members from the respective state governments, the Defence Ministry, the Customs Department, few independent members who are experts in port activities.
- It emphasized the need for a better representation of employees of the port on the Board.
- **Voting Powers** - The bill provides that all questions will be decided by a majority of votes of the members present and voting.
- The Chairperson or the person presiding will have a second or casting vote in case of equal votes.
- The Committee recommended deleting this provision because it would impact the functional and strategic independence of the Board.
- **Raising loans** - The Bill provides for the ports to raise loans even from institutions outside India that is compliant with all the laws.
- However, the Committee has noted that raising loans from private or foreign financial entities may give such entities control over the port management.
- It recommended that the provision should be amended to ensure that the administrative control of the Port Authority always remains with the government.
- **Others** - The committee recommended that while handing over port related activities to private operators, national security and safety should not be compromised.
- This is particularly in reference with ports handling defence cargo.
- It recommended that no new ports must be established in the 100 km vicinity of an existing major port, without the authority's permission.

## 2.37 Central Road Fund (Amendment) Bill

**Why in news?**

The government has proposed to make amendments to the Central Road Fund Act, 2000.

**What are the provisions?**

- The Central Road Fund Act pertains to the CR Fund which is made up of cess on petrol and high speed diesel.
- The cess is at present in the rate of Rs 6 per litre.
- The amendment seeks to allocate a part of this cess to fund the National Waterways (NWs) project.
- Under the provisions of the bill, an allocation of 2.5% of CRF proceeds would go for funding the waterways project.

**What are the benefits?**

- The National Waterways (NWs) Act, 2016 aimed at developing and maintaining the existing five NWs and 106 new NWs across the country.
- However, the implementation is not in full swing with challenges in funding for the infrastructure such as jetties, terminals, and navigational channels.
- An allocation of 2.5% of CRF proceeds would provide approximately Rs2,000 crore per annum for the development and maintenance of NWs.
- It ensures a sustainable source of funding, as current budgetary support and funds from multilateral institutions are inadequate.
- It also offers incentives and certainty for the private sector to invest in the inland waterways transport sector.
- The move comes along with all the benefits of transportation through the waterways that include -
    1. Environment friendly and cleaner mode of transportation.
    2. Lower logistics cost as cargo transportation through water is much cheaper.
    3. Diversion of traffic from over-congested roads and railways.

## 2.38 Draft Space Activities Bill, 2017

**Why in news?**

The Department of Space has released a draft Space Activities Bill, 2017.

**What are the key provisions?**

- The provisions of the legislation shall apply to every citizen of India.
- And also to all sectors engaged in any space activity in India or outside India.
- **Regulatory mechanism** - The central government is responsible for setting mechanisms and promoting space activity.
- This includes exploration and use of outer space, and development of the sector.
- The central government can:
    i. grant, transfer, or terminate licenses to any person for commercial space activities
    ii. provide professional and technical support, and authorisation to launch or operate space objects
    iii. regulate the procedures for conduct and operation of space activity by monitoring the conformity with international space agreements to which India is a party
    iv. ensure safety requirements and investigate any incident or accident in connection with the operation of a space activity
- **Licences** - A non-transferable licence shall be provided by the Central Government to any person carrying out commercial space activity.
- A license granted by the central government includes -
    i. permission for the central government to inspect any space activity and documents related to space activity
    ii. obligation on the licensee to insure himself/herself against any liability incurred due to any activity authorised by the license
- **Liabilities** - A licensee should compensate the central government against claims brought against the government.
- This would be regarding damages arising out of commercial space activities covered under the license.
- **Penalties** - The draft Bill provides for penalties in case of:
    i. unauthorised commercial space activity
    ii. furnishing false information or documents
    iii. causing environmental damage
    iv. entry into prohibited areas
    v. disclosure of restricted information
- **Protection** of action taken by the central government i.e. no legal proceedings can lie against the central government with respect to anything done in good faith in pursuance of space activity.

- **IPR** - Intellectual property rights developed during the course of space activity will be protected under the law.
- Further, any intellectual property right developed onboard a space object in outer space will be deemed to be the property of the central government.

**What does the bill aim for?**

- Currently, space activities are regulated by policies such as the Satellite Communication Policy, 1997 and Remote Sensing Data Policy, 2011.
- The proposed Bill addresses the need for a legal environment for orderly performance and growth of the space sector.
- It aims at encouraging both the public and private sectors to participate in the space programme.
- The Bill specifically facilitates for the participation of non-governmental/private sector agencies in space activities in India.

## 2.39 Karnataka Private Medical Establishments (Amendment) Bill

**Why in news?**

The private health sector in Karnataka is protesting against the state government-proposed Karnataka Private Medical Establishments (KPME) (Amendment) Bill 2017.

**What is the bill about?**

- The KPME Act was passed in 2007, aimed at being a legal control over PMEs in the state.
- The KPME (Amendment) Bill 2017 intends to bring the PMEs under the purview of the government.
- The amendments are based on the recommendations of former SC judge Vikramajit Sen.
- Passing the bill would facilitate the rolling out of the State's Universal Health Coverage (UHC) scheme called 'Arogya Bhagya'.

**What are the proposed amendments?**

- The Bill makes the **registration** of PMEs mandatory and lays down guidelines to ensure their **quality**.
- It increases the fine for running non-registered PMEs.
- Similarly, it increases the fine and term of imprisonment for non-adherence to the rules regarding maintenance of **clinical records and payments**.
- It makes it mandatory to provide life saving **emergency measures** without insisting on advance payment.
- And in the event of death, the body of the deceased should be released without insisting on payment of dues.
- Every PME should display prominently the **Patient's Charter and PME's Charter**.
- The amendments will pave the way for the government to **fix the rates** for each class of treatment, and also provide **grievance redressal** systems.

**What are the concerns?**

- The private health sector finds contentious the provisions like price capping of various procedures, imprisonment of doctors and setting up of a grievance redressal cell.
- There are demands for making the provisions applicable to the government hospitals as well.
- The protests call for enhancing the standards of **health care at government hospitals,** before regulating private medical establishments.

**What is the way forward?**

- There is a need to ensure parity in services offered by government and private institutions and to end the neglect of public facilities especially in rural areas.

- Beyond regulation of prices for some drugs, streamlining the processes for centralised procurement and free distribution of essential medicines to all should also be done.

## 2.40 Maharashtra Draft Bill - Cut Practice in Health Care Services

**Why in news?**

Maharashtra has recently drafted the Prevention of Cut Practice in Health Care Services Act, 2017.

**What is a "Cut Practice"?**

- "Cut" Practice refers to the commissions paid for making medical referrals.
- It involves those in the medical network such as the doctors, pharmaceutical companies, diagnostic laboratories and hospitals.
- Several MBBS graduates see this as a means of recovering their investment in medical education.
- Also, with rising competitors, medical practitioners resort to commissions practice as a means of survival.
- The bill will be the first of its kind in India to make a formal recognition of the commissions practise for referral of patients.
- The ultimate objective is to reduce the cost to the patient who pays fees that include the commission to the referring doctor.

**What does the draft Bill propose?**

- The bill is to address the rampant "Cut" Practice.
- Bill defines "cut practice" by stating that exchange of gifts, favours, money or material will be considered commission in case a patient is found being referred for treatment, tests or for admission of patients.
- It prohibits all healthcare service providers from demanding or accepting gratification through these means.
- This applies to hospitals, doctors, pharma companies, diagnostic labs, maternity homes, dispensaries and clinics.
- It authorises the Maharashtra Anti-Corruption Bureau (ACB) as the investigating agency.
- It also allows the government to initiate suo motu inquiry against doctors.
- Punishment ranges from a fine of Rs 50,000 to imprisonment up to five years.
- Medical council can suspend the licences of doctors found guilty of engaging in "cut practice" for at least 3 months.
- Names of those being probed will be kept confidential until charges are confirmed, to ensure that genuine doctors were not harassed over a false complaint.

**What are the shortfalls?**

- The **ACB**, whose primary competence is in the investigation of corruption, may find it difficult to pursue **technical or scientific inquiries**.
- E.g. Establishing the need and validity of a test or consultation recommended by a doctor.
- Officials from the implementing body said **malpractice in the cash form** may be difficult to trace.
- It is also difficult to establish if a particular drug, manufactured by a certain company was prescribed actually for pecuniary gains.
- There are systems wherein a doctor or clinic ties up with a diagnostic lab to share profits.
- But going by the definition of 'cut' practice in the draft Bill, even this can be investigated on technical grounds, even if no 'cut' has been paid.
- Besides, the draft Bill has not made any mention of the **medical tourism.**

## 2.41 Maharashtra Social Boycott Bill

**Why in news?**

President has given his assent to the Maharashtra social boycott bill.

**What is social boycott?**

- A social boycott is an act of voluntary and intentional abstention from dealing with a person, organization, as an expression of protest, usually for social, political reasons.
- In India, it is frequent that particular Indudival or group of Indudival are boycotted by other set of majority in the name of caste, religion, rituals, and traditions.
- It was categorically stated that social boycott for reasons such as religious rituals, inter-caste marriage, lifestyle, dress or vocation are happening.

**What are the highlights of the bill?**

- Maharashtra is the first state in the country to formulate a law to punish social boycott.
- The objective of the bill is to of uproot social evils in the name of caste panchayats.
- Punishment for an offence includes a fine of up to Rs 5 lakh and imprisonment of up to seven years or both.
- Social boycott will be treated as a crime.
- There is a provision for victims or any member of the victim's family to file a complaint either with the police or directly to the magistrate.
- Earlier social boycott was not clearly defined in existing laws, which often saw perpetrators using loopholes to escape punishment.
- A monitoring mechanism has been provided through social boycott prohibition officers.
- Speedy trial within six months of filing of the charge sheet.

## 2.42 Child Marriage Amendment Bill

**Why in news?**

President has given his assent to the Prohibition of Child Marriage (Karnataka amendment) Bill, 2016.

**What is the status of child marriages in Karnataka?**

- Karnataka is among the States that record a high number of child marriages.
- 23% of the total married population are child marriages.
- A large number of child marriage cases are reported from Dharwad, Belagavi, Bagalkot, Koppal, Raichur and Vijayapura districts.

**What is the amended bill about?**

- This bill will give greater power to the police and increasing the penalty for child marriage.
- It proposes rigorous imprisonment of one year for offenders.
- It also emphasizes penalties for those attending wedding ceremonies of minors.
- It enables any police officer to take cognizance of the offence.

## 2.43 Criminal Laws (Rajasthan Amendment) Ordinance, 2017

**Why in news?**

Rajasthan government has recently promulgated an ordinance to shield judges and bureaucrats facing corruption charges.

**What are the provisions?**

- The Rajasthan government recently passed Criminal Laws (Rajasthan Amendment) Ordinance, 2017.

- It is now sought to be made into a law.
- It protects serving and former judges, magistrates and public servants from being investigated for on-duty action, without government's prior sanction.
- It provides 180 days immunity to the officers.
- If there is no decision on the sanction request after this stipulated time period, it will automatically mean that sanction has been granted.
- In addition, it prevents the media from reporting on accusations on such persons till the sanction for probe is obtained.
- Violating this clause would call for two years imprisonment.

**What are the concerns?**

- **Corruption** - These changes seem to be increasingly shielding the public officials from corruption cases.
- Insulating honest officials from frivolous or motivated charges of wrong-doing is justifiable.
- However, prosecution for disclosing the identity of the public servants concerned offers an unjustifiable protection to erring officials.
- Also this special protection to those in power, in instances of corruption, seems to go against Article 14 of the Constitution, conferring equal rights in front of the law.
- **Media freedom** - This is the first time a section prescribing punishment for disclosure is being introduced in India.
- It is a grave threat to media freedom and the public's right to know.
- **Investigation** - Provisions in CrPC and Prevention of Corruption Act already make prior sanction mandatory, before a court can take cognizance of a public servant corruption case.
- In addition to this, the ordinance, also restraints judicial magistrates from ordering an investigation without prior sanction.
- This could hamper a possible probe, as no investigating agency can approach a sanctioning authority without gathering any material.

**What should be done?**

- Noticeably, the Supreme Court had earlier struck down a statutory provision for prior government clearance for a CBI probe against officials of the rank of joint secretary and above.
- This verdict is a touchstone to test the constitutionality of the pre-investigation sanction requirement.
- So centre should speed up amendments that redefine criminal misconduct among public servants at the same time protecting legitimate decisions.
- In all, the anti-corruption legislations should aim at punishing the corrupt, protecting the honest, and ensuring whistle-blower safety.

## 3. POLICIES

### 3.1 New Committee on National Educational policy

**Why in news?**

HRD ministry announced new eight member committee on National education policy recently.

**What is the need for a new committee?**

- The government is not satisfied with the reports of TSR Subramanian Committee.

- It is looking for a fresh and comprehensive report.
- The new committee will be headed by ISRO chief K Kasturirangan.

**What were the recommendations of Subramaniam committee?**

T.S.R.Subramaniam committee formed in the year 2015, submitted the following recommendations –

- Indian Education Service (IES) should be established as an all India service with the cadre controlling authority vesting Resource HRD ministry.
- The outlay on education should be raised to at least 6% of GDP without further loss of time.
- Teacher Entrance Tests (TET) should be made compulsory for recruitment of all teachers.
- Compulsory licensing for teachers in government and private schools should be made mandatory.
- Pre-school education for children in the age group of 4 to 5 years should be declared as a right .
- The no detention policy must be continued for young children until completion of class V when the child will be 11 years old.
- A National Level Test open to every student who has completed class XII from any School Board should be designed.
- The mid-day meal (MDM) program should now be extended to cover students of secondary schools.
- The University Grants Commission (UGC) needs to be made leaner and thinner and given the role of disbursal of scholarships and fellowships.
- Top 200 foreign universities should be allowed to open campuses in India.

**Why was the government against it?**

- The original report recommended that political parties to be banned from appointing Vice Chancellors for universities.
- It called for a separate bureaucratic framework for HRD functions.
- An autonomous body to handle the selection of teachers for government schools and colleges was also recommended.

## 3.2 National Energy Policy

**What is the issue?**

- NitiAayog's latest draft National Energy Policy encourages de-carbonisation, energy efficiency and renewable energy.
- But it is also filled with contradictions and omissions.

**What are the major contradictions?**

- The policy foresees India's power demand going up four-fold by 2040.
- It also estimates coal-fired power capacity to grow to 330-441 GW by 2040.
- This projected scenario is in **direct conflict with the declared twin goals** of sustainability and security.
- It also comes at a time when solar and wind tariffs appear to be reaching historic new lows.
- This dropping tariffs and the advancements of renewable energy proves that renewables are the logical choice to power India's energy transformation.
- **Coal Export -** NITI Aayog proposes that our coal industry will emerge as an exporter of coal.
- It is against our international commitments to tackling climate change.

- **Tackling Air Pollution -** The draft proposes that the geographic concentration of power plant will be strategically placed to not damage air quality in human habitations.
- This is illogical as the placement of polluting power stations is indifferen tot the pollution it will cause to the environment.
- **Public Health -** It briefly touches upon of consideration of public health of semi-urban and rural regions of India.
- It doesn't address problems of city dwellers.
- **Nuclear Energy -** The draft calls nuclear energy as the **only green energy source to be relied upon** for baseload power requirements.
- Age of India's nuclear reactors, high pice paid for nuclear energy, safety issues were not covered.

## 3.3 Open Acreage Licensing Policy

**Why in news?**

The government has replaced the New Exploration and Licensing Policy (NELP) with the Open Acreage Licensing Policy (OALP).

**What is Open Acreage Licensing?**

- OALP gives an option to a company to **select the exploration blocks on its own,** without waiting for the formal bid round from the Government.
- Under OALP, a bidder intending to explore hydrocarbons may apply to the Government seeking exploration of any new block which was not already covered by exploration.
- The Government will examine the interest and if it is suitable for award, then the govt will call for competitive bids after obtaining necessary environmental and other clearances.
- OALP was introduced as part of the new fiscal regime in exploration sector called Hydrocarbon Exploration and Licensing Policy (HELP).
- So that, it will enable a **faster survey and coverage** of the available geographical area which has potential for oil and gas discovery.
- Successful implementation of OALP requires building of National Data Repository on geo-scientific data.

**What are the positives of OALP over NELP?**

- By placing **greater discretion** in the hands of explorers and operators, the OALP attempts to address a major drawback in the NELP that forced energy explorers to bid for blocks chosen by the government.
- Companies can now apply for particular areas they think is attractive to invest in, because in the past, the blocks chosen by the government often had only a small fraction of hydrocarbon reserves.
- By offering companies the freedom to choose exactly the areas they want to explore, and their size, the government has abetter chance to woo serious energy investors.
- The govt also introduced **National Data Repository (NDR).**
- It is envisaged as a centralised database of geological and hydrocarbon information that will be available to all.
- It will allow potential investors to make informed decisions and **will open up a new sector in India.**
- There are a number of companies that simply explore hydrocarbon basins and sell the information they gather. Thus via NDR, the govt seeks to incentivise such prospectors.
- Companies may also submit applications through the year and not just at designated and often infrequent points, as was the case earlier.
- Also, from now on, the auctions will be held twice a year. This, will lend more flexibility to the industry.

**What are the concerns with OALP?**

- The policy awards an extra five points to bidders for an acreage if they have already invested in the exploration and development of that area.
- But, it is highly doubtful **if this is an acceptable incentive,** since the investment needed to simply explore is significant.
- Also, **no such preference is given to mineral explorers** while auctioning mining rights.
- Instead, a revenue-share from mining operations is their recompense for exploration efforts.
- Another concern is **whether India can attract enough investment** to meet the government's objective of reducing oil imports by 10% by 2022, since there are already proven reserves in other parts of the world.

## 3.4 Dynamic Pricing Policy

**Why is the issue?**

Dynamic pricing has left the Indian fuel retailers worried about their profit margins.

**Why are the retailers worried?**

- In the previous regime of fortnightly change in fuel prices, the retailers managed their inventories based on expected prices.
- But with a business requirement of stocking for a much longer period than a day, daily fuel prices left the retailers worried about their fixed profit margins.
- With the current fixed commission of Rs 2.2/litre on petrol and Rs 1.5/litre on diesel, the net profit for a dealer at the end of the month will be dependent on the way the dealer manages overhead costs, transport, working capital, etc, and not the inventories.
- e.g. To sell high priced inventories at low prices, will be disincentivising.
- The same situation will also arise when crude oil prices become highly volatile without any clear downward or upward direction.
- Retailers lost as much as Rs 400 crore in the first two weeks of the roll-out of the dynamic pricing.
- This has the potential to introduce inventory uncertainties and disrupt the well established smooth supply chain.

**Dynamic pricing policy**

- This means that the prices of these transport fuels are changed daily by the OMCs based on the movement of international crude oil prices.
- Prior to this, the revision in fuel prices happened on a fortnightly basis.
- It is part of an effort to remove the burden off subsidies on the exchequer & the Oil Marketing Companies (OMCs).
- It smoothened out price fluctuations & thereby benefited OMCs and the consumers.

## 3.5 Draft Pharma Policy

**Why in news?**

The draft pharma policy was recently released by the Department of Pharmaceuticals (DOP).

**What are the highlights of draft pharmaceutical policy?**

- It proposes to balance the need for price control over medicines.
- Union government will gain a greater role in deciding prices of medicines and medical devices.
- NPPA will regulate only medicines that are specified by the government in the National List of Essential Medicines.
- The price caps being imposed on patented medicines will be reduced.

- Itwill allow pharmaceutical manufacturers to sell their medicines under only under generic names and not under differently-priced brands.
- Manufacturing of drugs under WHO standards will be made mandatory.
- The policy will bring down the unreasonable trade margins offered by various stockists to hospitals.

**What are the issues with the policy?**

- The policy fails to lay controls over the chemists, which may facilitates the sale of fake drugs.
- It doesn't have any mechanisms to boost production standards.
- Instead of an appellate authority, it seeks to give bureaucrats more powers on drug controls.
- Government takes direct role of fixing the drug price.
- This will affects the quality, innovation, and hurts patients as much as it does companies.
- It opens the door to lobbying and rent-seeking with all the attendant dangers for competition and for corruption.

**What should be done?**

- It will be better if price monitoring focuses on essential drugs, there are about 200.
- Strict price control measures needs to be avoided and market friendly pricing should be followed.
- Domestic production of import drugs should be promoted, with better quality and affordability.
- The government should also consider specific steps against overcharging of prices by the industries.

## 3.6 New Metro Rail Policy

**Why in news?**

- Recently Union Cabinet approves new Metro Rail Policy.
- The policy seeks to enable realization of metro rail aspirations with the use of PPP models.

**What are the highlights of Metro Rail policy?**

- It focuses on compact urban development, cost reduction and multi-modal integration
- It opens a big window for private investments across a range of metro operations.
- PPP component is made mandatory for availing central assistance for new metro projects.
- Innovative forms of financing of metro projects have been made compulsory.
- **Last mile connectivity -** It seeks to ensure it by focusing on a catchment area of 5 km on either side of metro stations to provide necessary last mile connectivity through feeder services
- Walking, cycling pathways and introduction of para-transport facilities are planned for this.
- **Optimal utilization** - Urban Metropolitan Transport Authority (UMTA) has been made mandatory,
- It is mandated to ensure complete multi-modal integration for optimal utilization of capacities.
- **Third party Assessments -** Independent assessment by agencies to be identified by the Government, whose capacities would be augmented, as required in this regard.
- **Urban transformation -** Transit Oriented Development (TOD) to promote compact and dense urban development along metro corridors.
- TOD reduces travel distances besides enabling efficient land use in urban areas.
- **Fare Fixation -** It empowers States to make rules and regulations and set up permanent Fare Fixation Authority for timely revision of fares.

## 3.7 Committee of Administrators

**What is the issue?**

- The Supreme Court in January 2017 appointed a **four-member Committee of Administrators (CoA)** led by former Comptroller and Auditor General of India Vinod Rai.
- They were appointed to govern and reform cricket which was plagued by conflicts of interest and lapses in ethics.
- The SC had made the ruling on the basis of **Justice R.M. Lodha Committee's recommendations**.
- Now, six months later, the CoA is making news for the wrong reasons. And worse of all, the objective of the Lodha Committee recommendations still remains unaddressed.

**Why it failed to achieve its objectives so far?**

- The CoA's challenges and helplessness have been exacerbated by the initially **stolid defence of the State bodies.**
- A case in point is the presence of N. Srinivasan at the special general meeting of the BCCI on June 26, 2017 on behalf of the Tamil Nadu Cricket Association.
- With one administrator (Mr Guha) already out, and another, due to leave shortly, Indian cricket now faces a crisis of leadership and confidence.
- There is also the issue of whether or not it will be supported, both financially and practically, by the BCCI and the State associations.
- Another issue being – the CoA deciding not to increase the overall remuneration percentage for domestic cricketers from 26% of the BCCI's revenue.
- The lingering **conflict of interest, ambiguity and insinuations** that led to the controversy of a 'superstar culture', also dragging in the duality of roles with the IPL as mentors, haven't helped matters either.

**Why the success of CoA is important?**

- **The future of reform in sports governance and administration** in India is dependent on the outcome of cricket's overhaul.
- The SC is already mulling a petition across numerous sports, asking for the Lodha Committee reforms to be adopted across federations.
- The recommendations have become the beacon for reform across sports, championing the cause of sportspersons, transparency, and ethics.
- But there will be reform elsewhere only on the basis of this precedent.
- If the CoA fails, then so may any future reform in any Indian sport.
- It might also stall the momentum of an imminent, revised national sports code and a vital national sports law.
- If a direct mandate from the SC putting the CoA in charge of the BCCI is unable to make any headway, then the code or statute will be even further away from implementation.

**What is the way forward?**

- The CoA needs clarity of thought and resolve, and must focus on its prime objectives, i.e., **the universal adoption of the Lodha Committee's recommendations**, making cricket transparent and protected from potentially harmful conflicts, and restoring cricket to its players and fans.
- With a finite specified tenure and mandate, and a clear path to eligible elections, a lot can be salvaged.

## 3.8 Issues with Coal Allocation decisions

**What is the issue?**

- The Union Cabinet took two important decisions aimed at streamlining coal allocation to the power sector and making it more transparent and objective.

- The decisions might address some near-term issues, but they are unlikely to cater to the future needs of the sector.

**What was the first decision?**

- The first decision was to approve the signing of **fuel supply agreements (FSAs)** by power plants holding letters of assurance (LoAs) and likely to be commissioned by March 31, 2022.
- This will assure such plants - **firm supply of coal** and will address the cases of many power plants not having a firm fuel supply in spite of excess coal availability.
- The reason for this paradoxical situation was that the existing policy only ensured FSAs for plants commissioned by March 31, 2015. Plants that did not meet this deadline had to rely on other mechanisms, to gain access to coal.

**What is Shakti?**

- The second decision was to approve a policy called Shakti (Scheme for Harnessing and Allocating Koyala (Coal) Transparently in India) to **allocate coal to power plants without LoAs.**
- The government's move is likely to benefit 20,000 MW private-sector thermal capacities with **power purchase agreements (PPAs).**
- The new policy will lead to gradual phasing out of the old one and is expected to bring 30,000 MW of locked capacity into generation.
- It also seeks to **alleviate the stress** that certain power units are under due to unavailability of linkages.
- It thus bodes well not just for the infrastructure sector but also for the public sector banks which have billions of rupees lying unpaid in loans given to the power companies.
- Coal linkages for power plants will be based on auction or through PPAs based on competitive bidding of tariffs.
- Power generation companies belonging to the **Centre and the states will not be part of the policy** as they will continue to get coal linkages as per the recommendations of the ministry of power.

**What are the issues with Shakti?**

- Shakti appears to be in **conflict with some pro-competition initiatives** of the coal and power ministries.
- As a result of Shakti, the burden of base load capacity addition might continue to fall on distribution companies (discoms) and this in turn would leave small consumers to effectively bear the cost.
- On the coal side, the ministry wants to **introduce commercial mining for coal,** and has been making statements to this effect.
- Since most of the upcoming capacity will be owned by the public sector, which will continue to get coal at notified prices from Coal India Ltd (CIL) under Shakti, CIL will be shielded from competition.This is at odds with the intention of introducing commercial mining.
- Shakti's architecture is also **skewed against private power generators,** as they have to bid for coal at a premium above the CIL-notified price unless they are willing to take a chance on other routes like buying coal from a commercial miner (if that exists).
- Given this distortion, discoms would find it easier to continue signing "cost-plus" PPAs with public sector generators.
- Since **small consumers will continue to rely on discoms** for their power supply, the inefficiencies of the public sector value chain shielded from competition will be passed on to their electricity tariffs.
- Effectively, under Shakti, the coal and power generation sectors will be fragmented along public and private sector lines, with **no competition between the two.**
- Also, most coal linkages will continue to be allocated to public sector generators based on "recommendations from the MoP".

- This would go **'against the grain' of making the allocations transparent,** unless the entire process is fully transparent.
- Thus, it appears, rather than powering the future of the electricity sector, Shakti is likely to hinder competition and discourage private sector participation, thus failing to meet the future needs of the power sector.

## 3.9 Action Plan for Start-Ups

**What is the issue?**

- A year ago, the government launched its ambitious initiative for start-ups with an action plan containing 19 measures.
- However, the government's initiative has had an impact on only a small section of start-ups.

**What should be done?**

- **Self-Certification -** To facilitate ease of doing business, the government promised a compliance regime based on self-certification.
- It issued an advisory to states, union territories, EPFO and Employees' State Insurance Corporation offices not to inspect start-ups in the first year of set-up and, for the next three years, only with the approval of a senior officer.
- So far, only 12 states have confirmed compliance with the advisory.
- **IPR -** A fast-track, low-cost intellectual property regime was promised.
- Now, a list of more than 400 empanelled patent and trademark registration agents is published, and the government is supposed to pay them for services to recognized start-ups.
- However, there are only 1,006 such recognized start-ups that enjoy these benefits.
- **Innovation -** All start-ups, regardless of whether they are considered innovative by the government, should be able to enjoy these benefits.
- The government should not get into defining and deciding what innovation means.
- **Closure -** A critical measure to enable start-ups which could go on to fail is the ease of closure.
- The rules for voluntary liquidation are still in the works.
- They should be released and notified soon permitting start-ups to wind up business within 90 days.
- **Government Procurement -** The government is a huge buyer of goods.
- So central ministries and departments should be directed to relax the turnover and experience criteria for public procurement, so as to promote purchases from start-ups.
- The government instituted a Rs.10,000 crore fund-of-funds.
- So far, there have been only limited disbursements compared to the nearly Rs.16,000 crore start-up funding in 2016.
- Also, the details of the promised credit guarantee fund for start-ups are not out yet.
- Tax – An exemption from "angel tax" was announced.
- But so far only 13 start-ups have been certified for such tax benefits.

## 3.10 Monitoring Geographical Indications

**Why in news?**

Cell for IPR Promotion and Management (CIPAM) recently launched a social media campaign to promote Geographical Indications (GIs).

**What is GI?**

- GI is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin.
- e.g Nagpur Orange, Toda Embroidery, Chanderi Fabric of MP, Kangra Tea of HP etc
- Goods branded as GIs can be made indigenously by local communities independently and in a self-sustaining manner.
- GIs are an integral part of India's rich culture and collective intellectual heritage.
- It can potentially promote rural development in a significant manner.

**What was the purpose of the campaign?**

- The ministry considers that their promotion is in line with the Government's 'Make in India' campaign.
- It adds that "GI tag" has accorded protection to several handmade and manufactured products, especially in the informal sector.
- It plans to promote by sharing interesting facts and stories of on social media.

**What are the shortcomings of the move?**

- Campaign is a wonderful idea to promote awareness.
- But there is more work that is required at the legislative level.
- A GI is supposed to convey to a consumer the assurance of a certain quality.
- European Community Regulation states that the added value of GIs is based on consumer trust and that it is only credible if accompanied by effective verification and controls.
- Further, GIs should be subject to a monitoring system that includes a system of checks at all stages of production, processing and distribution.
- In the Indian scenario, the word 'quality' itself appears in the Geographical Indications of Goods (Registration & Protection) Act only in two instances.
- GI Act does not provide for monitoring mechanisms at multiple levels.
- Currently, there is a proliferation of GI registrations in India without any legal provisions for quality control.
- This is detrimental because prolonged failure to meet consumer expectations would dilute the premium and credibility of GI-branded goods.
- A customer would not pay a premium to a GI branded product if there is no difference in quality.

**Quick Fact**

**Cell for IPR Promotion and Management (CIPAM)**

- It has been created as a professional body under the the Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce and Industry.

**Global Innovation Index**

- GII is an annual ranking of countries by their capacity for and success in innovation.
- It is prepared by Cornell University, INSEAD and World Intellectual Property Organisation (WIPO).
- It is based on data derived from several sources, including the International Telecommunication Union, the World Bank and the World Economic Forum.

- The purpose of it is to take forward the implementation of the National IPR Policy.
- It is also working towards creating public awareness about IPRs, promoting the filing of IPRs through facilitation and providing inventors with a platform to commercialize their IP assets.

## 3.11 Promoting Innovations

**What is the issue?**

- India ranks 60th in a list of 127 countries on the Global Innovation Index (GII) of 2017.
- It ranks 43rd among 45 countries in the recently-released International Intellectual Property (IP) Index, 2017.
- The poor record on IP protection calls for appropriate governmental intervention.

**What are the initiatives in this regard?**

- The National Innovation Council (NIC) in 2010 aimed at promoting innovations and making India a hub of innovations.
- The key mandate of NIC was to formulate a roadmap for innovations for 2010 to 2020.
- It submitted three annual reports to the government; the last one in 2013.
- Sectoral innovation councils were set up in 25 major departments of Union government, including the ministry of agriculture.
- State Innovation Councils were also set up at the state level, as a measure of decentralisation.
- The present government has increasingly been stressing on its goal of promoting innovations.
- The Atal Innovation Mission is a notable initiative in this regard.

**HT Bt Cotton**

- Herbicide Tolerant Bt cotton is an innovation in the Bt cotton.
- It offers the twin advantage of bollworm resistance and herbicide tolerance.
- In comparison, the approved Bt variety (Bollgard I and Bollgard II) is only bollworm-resistant.
- It takes care of the weeds problem at a much lower cost than the labour farmers have to engage for weeding.

**What are the shortcomings?**

- Prime challenge for the government is to support and protect innovations.
- e.g One of impacts created by the lack of support system for innovations is the **rising incidence of illegal sales of Herbicide-Tolerant BT Cotton seeds.**
- One of the biggest innovations in Indian agriculture is the introduction of Bt cotton in 2002.
- Mahyco Monsanto Biotech (MMB), which released the Bt cotton, also intended to release HT Bt cotton (an innovation in Bt cotton).
- MMB thus applied for approval to the Genetic Engineering Approval Committee (GEAC).
- But **before MMB could be granted permission, HT cotton was illegally pirated**, probably from countries like the US, Australia, etc that had already released it officially.
- These pirated HT cotton seeds were bred in India and several companies sold them in large scale.
- Despite MMB's complaints to GEAC and the concerned ministries since 2008, there has been no action from the government side.

**What should be done?**

- The rising scale of illegal avenues for commercialising innovations undermines the regulatory systems.
- Government should thus create an enabling environment to safeguard **intellectual property** of individuals.
- Private and public companies that develop new products and ideas through their own investment must be encouraged.
- **Regulatory bodies** need to clear the applications for innovative products with utmost priority.

- Delaying this process would only give scope for their introduction by pirates.
- Firm **IP protection laws** and stern action against illegal activities are essential to **boost innovations**.

## 3.12 Verdict on NEET

**Why in news?**

The Madras High court quashed the Tamil Nadu Government's Order that provides 85% reservation in State Quota seats for students from State Board schools.

**How admission for medical college is being done?**

- The National Eligibility cum Entrance Test (NEET-UG) is an entrance exam for any graduate and postgraduate medical course in India.
- Medical colleges in a particular state have 85% seats reserved for the native students and 15% (All India Quote) seats for the students from other states.
- For instance, a student from Delhi wants to pursue MBBS from a college in Mumbai, he would be choosing from from 15% seats of total seats of that college.

**What is the Tamil Nadu government's stand?**

- Tamil Nadu had abolished entrance tests in 2006.
- Since then has been admitting students based on their marks in the qualifying school examination.
- The State government still opposes NEET exam.
- Two Bills had been passed in the State Assembly exempting students from Tamil Nadu from the exam. The bills were awaiting President's assent.
- In Tamil Nadu, around 88,000 students had appeared for NEET, of which only 4,600 were from the CBSE.
- According to the government, if a NEET-based merit list is drawn up, 72% of medical seats in government colleges and government quota seats in private colleges would go to CBSE school students.
- So the State government notified an order providing 85% reservation in the UG medical seats available in the State quota to the students from State Board syllabus and 15% to students from other boards.
- The NEET might be beyond the potential for students from rural and underprivileged backgrounds.
- There is a concern that the government may not get committed doctors to serve in rural areas if most of the seats are cornered by CBSE students.

**What was the court's rationale?**

- The Madras High court quashed the Tamil Nadu Government's Order that provides 85% reservation in State Quota seats for students from State Board schools.
- The petitioner submitted that powers to regulate admission to medical courses lie exclusively with the Medical Council of India (MCI) as per the provisions of the Indian Medical Council Act.
- The MCI has stipulated that admissions to medical courses shall be based on the marks obtained in NEET.
- The merit list prepared on the basis of such marks, and it does not distinguish between students from the CBSE and State Boards.

**What is the way ahead?**

- In a country with regional, economic and linguistic disparities, uniformity is no virtue.
- The political leadership at the Centre as well as in the States would do well to work together to evolve a flexible admission policy
- At the same time fairness, transparency and freedom from exploitation in admissions should be achieved.

## 3.13 Srikrishna Committee - White Paper on Data Protection Framework

**Why in news?**

As part of its mandate to draft a data protection and privacy Bill, the Srikrishna Committee recently released a white paper in the regard.

**What is the need?**

- The Committee was set up by the Ministry of Electronics and Information Technology following the decision to make Aadhaar compulsory for many government services.
- Private entities are also increasingly using Aadhaar for the purpose of authentication and financial transactions.
- Notably, Aadhaar is being issued by the UIDAI after collecting individual's personal and biometric data.
- Despite an obligation to adopt adequate security safeguards, no database is 100 per cent secure.
- Evidently, despite UIDAI's various in-built data protection mechanisms, it is not bound to inform an individual in cases of misuse or theft of his/her data.
- Thus, the interplay between any proposed data protection framework and the existing Aadhaar framework would have to be analysed.

**What are the highlights?**

- The committee has identified seven key principles for the data protection law, which include:
    1. **Technology agnosticism** - flexibility of the law for adapting to changing technologies and standards of compliance
    2. **Holistic application** - governing both private sector entities and the government; differential obligations for certain legitimate state aims
    3. **Informed consent** - ensuring by law the informed and meaningful consent of the individual
    4. **Data minimization** - data that is processed ought to be minimal, only for targeted and other compatible purposes
    5. **Controller accountability** - data controller shall be held accountable for any processing of data
    6. **Structured enforcement** - a high-powered statutory authority with sufficient capacity and decentralized mechanisms for enforcement of the data protection framework
    7. **Deterrent penalties** - penalties on wrongful processing of data to ensure deterrence
- **SPDI** - The white paper has laid down for the protection of sensitive personal data or information (SPDI) by which a person is identifiable.
- This essentially means that any social media site, search engine, telecom operator or government agency cannot sell or disclose SPDI of individuals.
- It has identified health and genetic information, religious beliefs and affiliation, sexual orientation, and racial and ethnic origin as SPDI.
- It has also placed caste and financial information in this category.
- The committee prescribes punishments in case of violations of regulations in using SPDI.
- At present, the IT Act rules on security practices and sensitive personal data are applicable only to private or corporate entities.
- **Data Breaches** - The law may require that individuals be notified of data breaches where there is a likelihood of privacy harms.
- However, the paper noted that fixing too short a time period for individual notifications might be too onerous on smaller organisations.
- As, such organisations may not have the necessary information about the breach and its likely consequences.
- It is suggested that both the government and private entities be brought under the ambit of the proposed law.
- **Exemptions** - The Committee has made certain exemptions in relation to collecting information.
- This is in reference to investigating a crime, apprehension or prosecution of offenders, and maintaining national security and public order.

- But, the committee also insists on devising an effective review mechanism.
- **Penalty** - A civil penalty of a specific amount may be imposed on the data controller for each day of violation.
- **Besides**, it suggested setting up a data protection authority, data auditing, registration of data collectors, enacting provisions for protecting children's personal data, etc.

## 3.14 Internet Shutdowns

**Why in news?**

A recent report shows that in India about 55 Internet shutdowns were triggered by government till October 2017.

**What is a government triggered internet shutdown?**

- During an aggressive political instability situation in a particular region, to preserve law and order government will decide to cut-off essential supplies or resource to that region.
- In the 21st century, the Internet has become an increasingly important essential resource.
- This growing importance of the Internet in personal life, at times poses a great challenge to governmental authorities.
- Governments therefore attempt to re-orient the relationship between the individual and the state in their favour by controlling the Internet.
- In India, one ubiquitous form of such control is the "Internet shutdown".

**What are the instances of internet cut offs?**

- Government has cut-off Internet access to prevent violent protests (Kashmir) and cheating in exams (Gujarat).
- There are instances of 37 Internet shutdowns, triggered by 11 States over a two-year period.
- It has serious consequences both for civil rights, and for businesses.
- The sheer ubiquity of Internet shutdowns makes it clear that it is being used as a routine card in the ever-expanding "law and order" toolkit of the state.

**What are the issues with these shutdowns?**

- For a long time, the legal basis of Internet shutdowns was unclear.
- A few years ago, the High Court of Gujarat invoked Section 144 of the Code of Criminal Procedure (CrPC) to uphold an Internet shutdown.
- Section 144 is primarily used to secure an area from damage or harm in the case of a potential or actual law and order disturbance, and more notoriously, to ban protests or other forms of political action in places such as central Delhi.
- The key flaw in the Gujarat High Court's decision was its failure to understand that the provisions of the CrPC cannot directly be transposed into the online world.

**What needs to be done?**

- Government plan to achieve a temporary illusion of security at the cost of a permanent loss of freedom must be avoided.
- There must be no invasion of the individual's right than what is strictly necessary to achieve the state's goal.
- To adjudicate a fair constitutional balance Courts must take into account the exceptional character of Internet shutdowns and their impact on core civil liberties before validating them.
- The government must, by law, subject Internet shutdowns to judicial scrutiny as soon as reasonably possible.

- Government to preserve law and order must use less drastic ways, such as increasing security, or addressing grievances of the citizens.

### 3.15 Haj Subsidy

**Why in news?**

Union government has decided to phase out the Haj subsidy as early as 2018.

**What are the shortfalls with the subsidy scheme?**

- Many pilgrims claim that the real beneficiary is Air India, as the subsidy is actually a discount on an overpriced air fare.
- Besides, the government was also providing Haj subsidies to Muslims identified by the central government as VIPs and special dignitaries.
- There are eminent person nominations of 3,000 Muslims per year under so-called Goodwill Delegation to Saudi Arabia.
- In the lines of these, there have been requests by Muslims, including some Muslim MPs, to withdraw the subsidy as it was against Islam, despite being beneficial.

**Haj Subsidy**

- It is not a direct subsidy to individual pilgrims.
- It is rather a subsidy to the airlines flying the Haj pilgrims.
- Pilgrims pay the Haj Committee of India (HCoI) a fixed amount for the airfare, and this amount is decided every year by the government.
- The balance fare payable to the airlines is paid by the Ministry of Civil Aviation as a subsidy.

**What is the government's recent move?**

- A Supreme Court order recommended, in 2012, for phasing out the Haj subsidy gradually, with 2022 as the outer limit.
- The Court ruled that the subsidy was not only unconstitutional but inconsistent with the teachings of Quran.
- On these lines, the government is planning to phase out the subsidy as early as 2018, by reducing it to "almost nil" from the Rs.450 crore being spent this year.
- Instead, it is planning to invest that amount in education and other development measures for the minority community.

### 3.16 Exclusion of Taj mahal

**Why in news?**

Uttar Pradesh government recently neglected Taj mahal from its tourism brochure.

**What are the significances of Taj mahal?**

- The Taj Mahal was built by Mughal emperor Shah Jahan in 1631, which acts as a global cultural exporter.
- Over the centuries, the Taj Mahal has been an enduring message of love and peace.
- It employs the principles of self-replicating geometry and symmetry of architectural elements and is regarded as the most exquisite monument built by the Mughals.
- The Taj Mahal and Agra accounted for the maximum number of tourists, which form the backbone of the small and medium businesses built around tourism in and around Agra.

**What was the government's rationale?**

- The state bureaucracy justified the step by stating the booklet was to promote the lesser known tourist destinations of the state.
- Since Agra and the Taj Mahal were already recognised and established tourist destinations, these were omitted from the list.

**What are the implications?**

- It is seen as a deliberate attempt to undermine the state's Muslim heritage.
- It is also argued that the state government is trying to promoting Hindu pilgrimage sites at the cost of other monuments.

- The country's leisure tourism industry is centred on the Taj Mahal and its exclusion would do more harm than good.

## 3.17 Facilitating Inter-State Mobility

**What is the issue?**

- Despite the absence of any explicit barriers to mobility, India's inter-state mobility is relatively lower.
- Analysing the reasons behind and making necessary policy alterations are essential to facilitate mobility to seek opportunities.

**How is the internal migration pattern in India?**

- Internal migration rates across states are **relatively lower in India** than in other many other countries.
- Roughly, **internal migrants** represented 30% of India's population as per 2001 Census.
- However, two-thirds of these were **migrants within districts.**
- There is a higher rate of migration from faraway districts of the same state than from nearby districts of a different state.
- Moreover, more than half of them were **women** migrating after marriage.
- Notably, states with higher rates of access to higher education and public employment have relatively less student and skilled migrants moving out.
- The **rate of migration** has almost **doubled** between 2001 and 2011 relative to the previous decade.
- However, labour migrant flows within states are much larger than flows across states.
- Evidently, state borders remain impediments to mobility though there are no explicit barriers to inter-state mobility in India.

**What are the reasons?**

- Barriers to internal mobility include **physical distance and linguistic differences.**
- Differences in **economic and social features** among different states are also among notable reasons.
- Despite these, there are a range of other factors that works as disincentives to inter-state migration.
- **Social Benefits** - A majority of social entitlement programmes are administered by state governments, even when they are centrally funded.
- In essence, many of the social benefits and entitlements are not portable across state boundaries.
- Access to subsidised food through the public distribution system (PDS) is a major reason.
- Evidently, in states where the PDS offers higher levels of coverage, unskilled migrants are less likely to move out-of-state.
- Even admissions to public hospitals, schools, etc are administered through ration cards issued and accepted only by the home state government.
- **Education** - Many universities and technical institutes are administered by state governments.
- Notably, state residents get preferential admission in these through "state quota seats".
- The "domicile certificates" necessary for this require continuous residence in the state, ranging from 3 to 10 years in different states.
- **Employment** - Though accounting for only about 5% of total employment, public sector employs more than half of the higher-skilled.
- However, in most states, more than three-fourths of government jobs are with the state rather than the central government.
- Here again, state domicile is a common requirement for jobs in state government entities.
- Moreover, states are increasingly expanding and promoting the "jobs for natives" policies in the recent period.
- E.g. Karnataka recently directed both public and private sector firms to reserve 70% of their jobs for state residents or would lose access to state government industrial policy benefits.

**What could be done?**

- India's "fragmented entitlements" should be integrated to offer citizens access to social benefits irrespective of the residing state.
- This is essential to boost growth and check poverty, by facilitating access to productive opportunities available across the country.
- A nationally portable identity could prove to be an important step.
- States should rationalise the discriminatory policies and become more inclusive in offering employment and education.

## 3.18 Streamlining Our Tobacco Policy

**What is the issue?**

- India is the second largest consumer and producer of tobacco-based products.
- We hence need a more targeted taxation and retail policy on tobacco products to effectively curb their use.

**How are the current policies oriented?**

- Thus far, a mix of pricing and taxation regimes, awareness campaigns, regulatory laws was used by governments to dissuade tobacco use.
- Despite multiple contradictory court rulings regarding the pictorial warnings on packs, the SC has presently retained the mandate for 85% space for them.
- The judgement recognized that such pictorial warning were one of the approaches for bringing about behavioural changes towards tobacco use,
- Additionally, it also stressed the lack of sufficient coherent pricing policies and taxation measures to aid the cause.

**Is the taxation pattern skewed?**

- World Health Organisation's (WHO) "Global Adult Tobacco Survey" highlights India's distinct pattern of tobacco consumption.
- The product variant structure of tobacco is complex in India as it is consumed in multiple forms like - cigarettes, bidis, chewables and khaini (smokeless).
- Notably, while cigarettes form the primary source of tobacco consumption worldwide, it accounts for only 11% of the domestic consumption.
- A key reason for this is the variable pricing dynamics for multiple forms of tobacco, which is skewed against cigarettes.
- The average unit price of a bidi or smokeless tobacco is significantly lower than of a cigarette, which makes the former popular among the poorer segments.

**Has GST improved the situation?**

- Under GST, all tobacco-related products have been placed in the 28% tax slab.
- Additionally, a National Calamity Contingent Duty (NCCD) and a cess charge have been imposed on cigarettes and smokeless tobacco.
- These have resulted in a considerable price increase for cigarettes, with the highest rise seen in economy packs.
- In contrast, GST has in fact precipitated a marginal price drop for small bidi and Pan Masala packs, and only a marginal rise for other sizes.
- For smokeless tobacco, the maximum price increase has been in the smallest pouch size category and marginal increase was seen in other sizes.
- Hence, it can be concluded that a rational, consistent and impactful taxation regime for tobacco hasn't taken shape under GST, which needs pondering.

**What is the way forward?**

- Removal of all excise and other tax exemptions irrespective of the size of the unit and restrictions on sales of loose cigarette sticks is needed.

- As 89% consumption is non-cigarette category, taxing it further won't produce any positive results towards reducing consumption.
- A significant rise in the taxes on bidis and smokeless tobacco is needed to narrow the gap between cigarettes and other tobacco products.
- While this will be opposed by the large number labourers involved in bidi making, safeguarding the health poor consumers should hold primacy.
- Also, nudging the workforce dependent on tobacco businesses to other sectors should be taken up with vigour.
- The Supreme Court has stayed an earlier order of the Karnataka High Court striking down the central Rules on tobacco packaging.

## 3.19 Pictorial Warning on Tobacco Products

**Why in news?**

The Supreme Court has stayed an earlier order of the Karnataka High Court which struck down the central Rules on tobacco packaging.

**What do the rules specify?**

- In 2014, the Ministry of Health notified amendments to The Cigarettes and Other Tobacco Products (Packaging and Labelling) Rules, 2008.
- It was mandated that the specified health warning shall cover at least 85% of the principal display area of the package.
- Of this, **60%** shall cover **pictorial** health warning and **25%** shall cover **textual** health warning.
- This shall be positioned on the top edge of the package and in the same direction as the information on the principal display area.

**GATS**

- Global Adult Tobacco Survey (GATS) was conducted by the Tata Institute of Social Sciences.
- It was in association with the Ministry of Health and Family Welfare, Government of India and the World Health Organisation.
- It is a national representative survey helping countries fulfil the obligations under WHO's Framework Convention on Tobacco Control.

**How was the implementation?**

- The Rules were to come into effect from April 1, 2015.
- However, there were cries of outrage from the tobacco industry.
- Subsequently, the Lok Sabha Committee on Subordinate Legislation (CoSL) examined the government's 2014 notification.
- After debates and delays, the rules finally came into effect from April 1, 2016, with the government stipulated 85% warning itself.
- Resultantly, India now has some of the world's most stringent rules on pictorial warnings on tobacco packets.

**How effective are pictorial warnings?**

- Health advocates have long argued for prominently displayed pictures of the impacts of tobacco consumption.
- These, sometimes grotesque depictions of tumours, are more effective than smaller pictures or written warnings.
- The Global Adult Tobacco Survey (GATS) 2016-17, released by the Ministry of Health and Family Welfare adds validity to this.
- The study has found that the warnings play a role in motivating more than half the number of smokers who quit.
- It highlighted that around 60% of cigarette smokers and around 50% of bidi smokers had thought of quitting.
- Another 46% of smokeless tobacco users had also thought of quitting because of the warnings on smokeless tobacco products.
- The new rules have effectively controlled tobacco and saved around 80 lakh lives in India.

**What is the recent petition?**

- A study on the economic burden of tobacco-related diseases in India said that the estimated total cost attributable to tobacco use was around Rs 1 lack crore in 2011.
- This is 12% more than the combined state and central government expenditure on healthcare in that year, and 1.16% of India's GDP.
- **HC** - However, the tobacco industry approached the Karnataka High Court.
- It argued that no correlation had been established between tobacco and the diseases depicted on the packs.
- It said the industry's right to conduct business was being unfairly affected because of the warnings.
- Accepting the contention, the court ruled that India should go back to the 40% warnings that existed before the notification of the 85% Rules.
- **SC** - However the Supreme Court has stayed the Karnataka High Court's order.
- It held that health of a citizen has primacy and he/she should be aware of that which can deteriorate the condition of health.

## 3.20 The Bane of Differentiated Passports

**What is the issue?**

- The government recently announced the introduction of differentiated passports for persons requiring "Emigration Checks" and the rest.
- While administrative convenience was said to have drove the move, many see it as an instance of institutionalising discrimination.

**What is the proposal about?**

- In what is a first of its kind in differentiation, new "Orange cover Passports" to citizens whose passports carry the "Emigration Check Required" stamp.
- For the rest, it is proposed to retain the current dark blue passports.
- ECR passport-holders are those who haven't passed their matriculation examination and aren't income tax assesses.
- ECR stamping is done to enable better tracking in order to prevent the exploitation of such people, when they go to work abroad as labourers.
- Notably, a majority in this category are likely to belong to a minority or marginalised communities.

**What are the problems involved?**

- The move stems from the belief that different jacketing colours would enable easier recognition and improve airport efficiency.
- This is but an admission to the failure to develop technology-based solutions to identify ECR passport-holders quickly.
- Also, by issuing orange passports to the marginalised migrant workers, the administration would be highlighting its failure to educate people.
- This will also create a citizenship document that will visibly identify some as members of economically and socially marginalised communities.

**What does history tell us?**

- The current move has a striking parallel with the South African "Domas Stamp", that declared its emigrants eligible for specific jobs.

**No-Fly List**

- The list specifies a list of passengers, who are banned from flying.
- The behaviours has been categorised into three levels -
- Level 1: Unruly Behaviour (physical gestures, verbal harassment, etc.) - Ban up to 3 months
- Level 2: Physically Abusive Behaviour - Ban up to 6 months
- Level 3: Life Threatening Behaviour - Minimum ban of 2 years with no upper limit.
- It will be applicable to foreign carriers as well.
- The pilot-in-command is the final authority to assess the situation.

- It proved to be stigmatising, serves as a reminder for our government to seriously reconsider this inherently bad move.
- Notably, the "Bold J" that was stamped on passports held by German Jews in the 1940s, was also another instance where differentiation was used.

## 3.21 Implementation of No-Fly List

**Why in news?**

The Civil Aviation Ministry has recently implemented India's first no-fly list.

**How does it work?**

- The rules impose certain obligations on airlines which include establishing Standard Operating Procedures and training their cabin crew, flight crew and ground staff.
- **Internal Committees** - Constituted by the airlines, the committee will be headed by a retired judge, a representative of another airline and a member of a passenger association.
- The airline can ban a passenger initially for 30 days, during which the committee will adjudicate.
- **DGCA** - The airline will send the decision of the committee to the aviation regulator Directorate General of Civil Aviation (DGCA).
- DGCA will maintain a list of these passengers on its website and it will be visible to the public.
- **Appellate committee** formed by the aviation ministry will be headed by a retired high court judge.
- Passengers can appeal within 60 days to this committee.
- If the committee is unable to give its verdict in thirty days, the passenger is free to fly.
- Also, during these 30 days the passenger can fly with other airlines if they do not ban him/her.
- Besides, there is a provision for the **Ministry of Home Affairs** to identify certain individuals as a national security threat.

**What lies ahead?**

- The measure empowers airlines to address the issues of misbehaviour, and check passenger angst and air rages.
- However, passenger associations are sceptical of the no fly list as it would give too many powers to the airlines.
- Also, the special provision with the MHA should be reconsidered as it gives no powers to the DGCA to differ.
- The imposition of the no-fly ban should only be used only as a last resort.

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