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Policies & Rules

(2016-Main Exam)



SHANKAR IAS ACADEMY

Plot No. 1742, 1st Floor, Syndicate Bank Building, 18th Main Road, Anna Nagar, Chennai - 600 040.

Phone : 044-26216435, 64597222, 4353 3445 Mobile : 94441 66435

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Policy

1. National Civil Aviation Policy, 2016

- The Ministry of Civil Aviation released the National Civil Aviation Policy 2016 in New Delhi.
- This is the first time since independence that an integrated Civil Aviation Policy has been brought out by the Ministry.
- The policy is very comprehensive, covering 22 areas of the Civil Aviation sector

Aim

- The policy aims to take flying to the masses by making it affordable and convenient, establish an integrated eco-system which will lead to significant growth of the civil aviation sector to promote tourism, employment and balanced regional growth, enhance regional connectivity through fiscal support and infrastructure development and enhance ease of doing business through deregulation, simplified procedures and e-governance.

Vision

- To create an eco-system to make flying affordable for the masses and to enable 30 crore domestic ticketing by 2022 and 50 crore by 2027, and international ticketing to increase to 20 crore by 2027. Similarly, cargo volumes should increase to 10 million tonnes by 2027.

Mission

- Provide safe, secure, affordable and sustainable air travel for passengers and air transportation of cargo with access to various parts of India and the world.

Objectives

- Establish an integrated eco-system which will lead to significant growth of civil aviation sector, which in turn would promote tourism, increase employment and lead to a balanced regional growth.
- Ensure safety, security and sustainability of aviation sector through the use of technology and effective monitoring. Enhance regional connectivity through fiscal support and infrastructure development.
- Enhance ease of doing business through deregulation, simplified procedures and e-governance.

- Promote the entire aviation sector chain in a harmonised manner covering cargo, MRO, general aviation, aerospace manufacturing and skill development.

Salient Features

Regional Connectivity Scheme

- This scheme will come into effect in the second quarter of 2016-17.
- Airfare of about Rs2500 per passenger for a one-hour flight
This will be implemented by way of
 - i) Revival of un-served or under-served airports/ routes, including routes connecting Agatti and Leh,
 - ii) Concessions by different stakeholders,
 - iii) Viability Gap Funding (VGF) for operators under RCS
 - iv) Cost-effective security solutions by Bureau of Civil Aviation Security (BCAS) and State Governments.

Route Dispersal Guidelines (RDG)

- Category I to be rationalized based on a transparent criteria, i.e., flying distance of more than 700km, average seat factor of 70% and above and annual traffic of 5 lakh passengers.
 - The percentage of Cat.I traffic to be deployed on Cat.II, and IIA will remain the same while for CATIII it will be 35%. Routes to Uttarakhand and Himachal Pradesh included in Category II
 - Revised categorization to apply from winter schedule of 2017
 - There view of routes will be done by MoCA once every 5 years
 - Withdrawal or revision of domestic operations to and within North East Region etc, subject to full compliance of RDG, can be done under prior intimation to MoCA at least three months before withdrawal or revision of the service
- 5/20 Requirement**
- Replaced with a scheme which provides a level playing field
 - All airlines can now commence international operations provided that they deploy 20 aircraft or 20% of total capacity (in term of average number of seats on all departures put together), whichever is higher for domestic operations

Bilateral Traffic Rights

- GoI will enter into 'Open Sky' ASA on a reciprocal basis with SAARC countries and countries located beyond 5000 km from Delhi

- For countries within 5000 km radius, where the Indian carriers have not utilised 80% of their capacity entitlements but foreign carriers /countries have utilised their bilateral rights, a method will be recommended by a Committee headed by Cabinet Secretary for the allotment of additional capacity entitlements
- Whenever designated carriers of India have utilised 80% their capacity entitlements, the same will be renegotiated in the usual manner.

Ground Handling Policy

- The Ground Handling Policy/ Instructions/Regulations will be replaced by a new framework:
- The airport operator will ensure that there will be three Ground Handling Agencies (GHA) including Air India's subsidiary/JV at all major airports as defined in AERA Act
- At non-major airports, the airport operator to decide on the number of ground handling agencies, based on the traffic output, airside and terminal building capacity
- All domestic scheduled airline operators including helicopter operators will be free to carry out self-handling at all airports through their regular employees
- Hiring of employees through manpower supplier or contract
- workers will not be permitted for security reasons

Airport PPP/AAI

- Encourage development of airports by AAI, State Governments, the private sector or in PPP mode
- Future tariffs at all airports will be calculated on a 'hybrid till' basis, unless specified otherwise in concession agreements. 30% of non-aeronautical revenue will be used to cross- subsidise aeronautical charges
- Increase non-aeronautical revenue by better utilisation of commercial opportunities of city side land
- AAI to be compensated in case a new greenfield airport is approved in future within a 150 km radius of an existing unsaturated operational AAI airport (not applicable to civil enclaves)

Aviation Security, Immigration and customs

- As MoCA will develop 'service delivery modules' for aviation security, Immigration, Customs, quarantine officers etc in consultations with respective Ministries/Departments
- Allow Indian carriers to provide security services to other domestic airlines subject to approval of BCAS
- Encourage use of private security agencies at airports for non- core security functions to be decided in consultation with MHA
- Such agencies should be registered under the Private Security Agencies (Regulation) Act, 2005 and will also be separately accredited by BCAS
- Subject to minimum benchmarks being met, security architecture at the different airports will be proportionate to the threat classification and traffic volume.

Helicopters and Charters

Separate regulations for helicopters will be notified by DGCA after due stakeholder consultation

- MoCA to coordinate with Govt agencies and other helicopter operators to facilitate Helicopter Emergency Medical Services
- Helicopters will be free to fly from point to point without prior ATC clearance in airspace below 5000 feet and areas other than controlled or prohibited or restricted airspace
- Airport charges for helicopter operations will be suitably rationalized
- The existing policy of allowing Inclusive tour package charters will be further reviewed to include more categories of passenger charter flights recognised globally.

Maintenance, Repair and Overhaul (MRO)

The MRO business of Indian carriers is around Rs 5000 crore, 90% of which is currently spent outside India. In the budget for 2016-17, customs duty has been rationalised and the procedure for clearance of goods simplified. Further incentives proposed in the policy to give a push to this sector:

- MoCA will persuade State Governments to make VAT zero- rated on MRO activities
- Provision for adequate land for MRO service providers will be made in all future airport/heliport projects where potential for such MRO services exists
- Airport royalty and additional charges will not be levied on MRO service providers for a period of five years from the date of approval of the policy

Aviation Education and Skill Building

- Estimated direct additional employment requirement of the Civil Aviation Sector by 2025 is about 3.3 lakh.
- All training in non licensed category will conform to National Skill Qualification Framework standards.
- MoCA will provide full support to the Aviation Sector Skill Council and other similar organisations/agencies for imparting skills for the growing aviation industry.
- There are nearly 8000 pilots holding CPL but who have not found any regular employment. MoCA will develop a scheme with budgetary support for Type- rating of Pilots.

2. Defence blacklisting policy

Background:

- The Defence ministry is currently in the process of framing a new blacklisting policy.

What is blacklisting in defence sector?

- Blacklisting of defence companies relates to, preventing those firms that are found to have resorted to unscrupulous means to acquire the defence deals from the government, from participating in future defence deals and it may also involve termination of ongoing defence deals.
- At present, 15 entities, including six foreign firms, are blacklisted by the Ministry, while 23 others are under the scanner.

Current Government's stand:

- Blanket blacklisting policy, which was used by the previous UPA government, led to shortages of ammunition and artillery guns and hampered the acquisition process.
- For Example – The new submarines being acquired by the Indian Navy under the P-75 programme, developed by France's DCNS will be without torpedoes for a long period of time, because of the blacklisting of WASS, a Finmeccanica company. In 2014 Finmeccanica and its group companies were blacklisted for Agusta Westland VVIP chopper scam and kept out of future defence projects.

Negatives of Blanket ban on defence firms:

- Unavailability of certain weapon systems when only one company manufactures that particular system.

- In complex defence acquisitions like fighter jets and submarines, many companies may be involved as component manufacturers. In such a situation, blacklisting even one among them, will lead to incomplete weaponry being delivered. This compromises the capability of the weapon system.
- Single vendor situation: When only few companies produce a particular weapon system and if all except one of those companies are blacklisted, then that single company that has not been blacklisted, gains an absolute monopoly when participating in tenders to that particular weapon system.

Provisions expected in the new blacklisting policy:

- New norms are expected to be a mixture of heavy fines, graded blacklisting and other penalties.
- Instead of blocking a business from defence deals, India will impose an economic penalty on the company.
- Defence ministry is in favour of allowing those companies that have already been blacklisted, to participate in defence projects so long as they agree to deferred prosecution.

Concerns raised by defence equipment manufacturers:

- What happens to those firms that have already been blacklisted? Will they be allowed to use the window provided for firms to pay fines and participate in the ongoing and future defence deals?

Reasons for delay in finalising the policy:

- Policy cannot be in contravention to the laws of the country and has to be harmonized. The law ministry will have a strong say in this matter and that is what is taking time.

Way forward:

- A strict, no-nonsense policy to deal with irregularities should be put in place, but care should be taken that no step is taken to harm the effective use of already-inducted equipment.
- India needs to balance considerations of integrity with considerations of national security, based on international best practices.

3. Defence Procurement Policy, 2016

- The Union Government has unveiled Defence Procurement Procedure 2016 (DPP 2016). The **first one unveiled in 2002**.

- It was unveiled by Union Defence Minister Manohar Parrikar on the sidelines of the Defexpo-2016 held in Goa.
- The DPP 2016 will replace the Defence Procurement Procedure 2013 (DPP 2013) and shall come into force on **1 April 2016**.
- In DPP-2013, the acquisition of Weapon Systems and equipment for the Armed Forces flows from the **Long Term Integrated Perspective Plan (LTIPP)**.
- The current LTIPP spells out the capability desired to be achieved by the Armed Forces over **15 years duration (2012-27)**

Background:

- The DPP 2016 has been framed based on the recommendations of the **Dhirendra Singh Committee** that was appointed in May 2015 to review the DPP 2013.
- The Committee was tasked to evolve a policy framework to facilitate Make in India in defence manufacturing in order to align the policy evolved with DPP-2013.
- It was also tasked to suggest requisite amendments in DPP-2013 in order to remove bottlenecks in the procurement process and also rationalize various aspects of defence procurement.

Aim

- To ensure **timely procurement** of defence (military) equipment, systems, and platforms required by the armed forces through optimum utilization of allocated budgetary resources.

Coverage

- It will cover all capital acquisitions undertaken by the Union Ministry of Defence, Defence Services and Indian Coast Guard (ICG) both from indigenous sources and import.

Capital Acquisitions Schemes

They are broadly classified into 3 categories viz.

- **Buy scheme:** Outright purchase of equipment and procurements under this scheme are further categorized as Buy (Indian- IDDM), Buy (Indian), and Buy (Global). IDDM stands for Indigenously Designed Developed and Manufactured.
- **Buy and Make scheme:** The procurements are categorized as Buy and Make and Buy and Make (Indian).

- **Make category Scheme:** It seeks developing long-term indigenous defence capabilities and procurements. It empowers Defence Acquisition Council (DAC) to take a fast-track route in order to acquire weapons, which were limited to the armed forces till now.

Procurement of defence equipment

The Categorization Committees while considering categorization of all capital acquisition under the Defence Procurement Procedure (DPP), follow a preferred order of categorization, in decreasing order of preference, as indicated below

- Buy (India-IDDM).
- Buy (Indian).
- Buy and Make (Indian).
- Buy and Make.
- Buy (Global).

Impact

- This hierarchy of Categorization clearly marked a **shift towards indigenous equipment.**
- Buy (India-IDDM) seeks to boost indigenous production and procurements. Under it 40% should be sourced locally in terms of the content.
- It will promote domestic manufacturing, including government funding R&D and recognition of the Micro, Small and Medium Enterprises (MSMEs) in technology development.
- Over the last few decades, provisions such as “Make” and BUY+Make (Indian)” categories have been introduced to facilitate the participation of the private sector in defence production.
- The DPP, 2016 boosts India’s target of **‘Make in India’** policy.
- It enables the creation of major domestic defence industry to cater to its own needs as well as exports.
- The policy will encourage local industry, by helping introduce top priority category called **Indian Designed Developed and Manufacture (IDDM).**
- Besides being proactive for ‘Make in India’, the government is also pushing for ‘Start up India’ by endorsing contribution of small and medium industry in defence sector.

4. Draft National Energy Policy

Why in news?

- Coal Ministry opposes NITI Aayog's Draft Energy Policy.

Draft National Energy Policy

- The NITI Aayog works on new National Energy Policy.
- NITI Aayog's National Energy Policy is aimed at curbing imports by increasing production of renewable energy in the country fivefold to 300 billion units by 2019 and tripling coal production to 1.5 billion tonnes. Coal imports are envisaged to come down by 10% by 2022 and by 50% by 2030.
- This policy will replace the Integrated Energy Policy of the previous government.

Policy's focus

- The new policy will have a focus on clean energy resources such as solar and natural gas.
- In addition, the policy will also look at ways to improve the quality of air which has deteriorated significantly over the past years.
- NITI aayog also plans to set up the National Energy Data Agency on the lines of the US Energy Information Administration (EIA).
- The agency will aim to provide oil and gas mapping by working with the Directorate General of Hydrocarbons, transmission line mapping, energy demand mapping and solar irradiation mapping, among others.

Government's targets

- Indian government has pledged to provide electricity to all Indians by 2022.
- India wants to improve its per capita electricity consumption of 1,010 kWh.
- The government targets to generate 175GW from renewable sources by 2022, including 100GW solar power.

Difference of Opinions

- Ministry of Coal has raised reservations over the draft National Energy Policy.
- It cites that the new policy favours aligning domestic coal prices with international rates.
- As of now, Coal India sells at prices approved by the company board. The new National Energy Policy links domestic coal prices with international rates.

- Coal Ministry officials fear that this may erode profits of state-run Coal India.
- The ministry is also concerned about losing its control over coal prices.
- The lack of consensus between the Centre and the ministry has delayed the policy, which has been in the works at NITI Aayog, the government's thinktank, for more than a year now.

Coal India Ltd

- State-run Coal India Limited is the country's largest producer of the commodity, which it sells at prices approved by the company board.
- The company produces 84% of India's coal.
- Due to a combination of lower international prices and inadequate domestic production, the value of India's coal imports touched a high of \$17.8 billion in financial year 2015-2016.

5. Draft National Wind-Solar Hybrid Policy

Why there is a need for a hybrid policy?

- India has set an ambitious target of reaching 175 GW of installed capacity from renewable energy sources including 100 GW from solar and 60 GW from wind by the year 2022.
- The country has already crossed a mark 26.8 GW of wind and 7.6 GW of solar power installed capacity during May 2016.
- Solar and wind power being infirm in nature impose certain challenges on grid security and stability. Studies revealed that **solar and winds are almost complementary to each other** and **hybridization of two technologies would help in minimizing the variability** apart from optimally utilizing the infrastructure including land and transmission system.
- Superimposition of wind and solar resource maps shows that there are large areas where both wind and solar have high to moderate potential.
- The existing wind farms have scope of adding solar PV (Photo voltaics) capacity and similarly there may be wind potential in the vicinity of existing solar PV plant.
- Suitable policy interventions are required not only for new wind-solar hybrid plants but also for encouraging hybridization of existing wind and solar plant

What is the objective of the policy?

- The main objective of the Policy is to provide a framework for promotion of large grid connected wind-solar PV system for optimal and efficient utilization of transmission infrastructure and land, reducing the variability in renewable power generation and thus achieving better grid stability.
- The Goal of the Policy is to reach **wind-solar hybrid capacity of 10 GW by 2022.**

How Wind-Solar Hybrid Systems are formed?

- Under the category of wind-solar hybrid power plants, Wind and Solar PV systems will be configured to operate at the same point of grid connection. There can be different approaches towards integrating wind and solar depending upon the size of each of the source integrated and the technology type.
- On the technology front, in case of **fixed speed wind turbines** connected to grid using an induction generator, the integration can be on the HT side at the AC output bus.
- However, in case of **variable speed wind turbines** deploying inverters for connecting with the grid, the integration can even be on the LT side before the inverter i.e. at the intermediate D.C bus.
- In order to achieve the benefits of hybrid plant in terms of **optimal and efficient utilization of transmission infrastructure and better grid stability by reducing the variability** in renewable power generation, appropriate size should be chosen.
- In the locations where the wind power density is quite good, the size of the solar PVs capacity to be added as the solar-hybrid component could be relatively smaller.
- On the other hand, in case of the sites where the wind power density is relatively lower or moderate, the component of the solar PV capacity could be relatively on a higher side so that the.

What is the strategy of implementation?

- The implementation of wind solar hybrid system will depend on different configurations and use of technology detailed below:
- **Wind-Solar Hybrid- AC integration** - In this configuration the AC output of the both the wind and solar system is integrated either at LT side using three-winding step-up transformer or at HT side. In the later case

both system uses separate step-up transformer and HT output of both the system is connected to common AC Bus-bar.

- **Wind-Solar Hybrid- DC integration** - DC integration is possible in case of variable speed drive wind turbines using invertors. In this configuration the DC output of the both the wind and solar PV plant is connected to a common DC bus and a common invertors suitable for combined output AC capacity is used to convert this DC power in to AC power.
- **Hybridisation of existing wind/solar PV plants** - Existing wind power or solar power projects, willing to install solar PV plant or wind turbine generators (WTGs) respectively to avail benefit of hybrid project, may be allowed to do so with following Conditions:
 - The hybrid power injected in to the grid will not be more than the transmission capacity/grid connectivity allowed/sanctioned for existing wind/solar project. This will ensure that no augmentation of transmission capacity is required.
 - No additional connectivity/transmission capacity charges will be levied by the respective transmission entity for installing the solar PV/wind turbine generators considering that same transmission capacity is being used.
- **New Wind-Solar Hybrid Plants** - In case of new wind-solar hybrid projects, the developer have option to use the hybrid power for captive use or third party sale or may sell the hybrid power to Distribution Company. The hybrid power may be procured through a transparent bidding process under different mechanisms.
- **Regulatory Interventions** - The Central Commission should lay down the guidelines for determination of generic tariff for wind-solar hybrid system.
- **Incentives**- Low cost financing for hybrid projects may be made available through Indian Renewable Energy Development Agency (IREDA) and other financial institutions including multilateral banks.
- **R&D** - Government will support the technology development projects in the field of hybrid systems.
- While there are inherent advantages in hybrid projects in optimal utilisation of resources, the project economics for such projects (whether for new or hybridisation of existing wind & solar plants) would be critically

dependent upon the tariff level which may be either feed-in tariff based or competitively bid based, as is proposed in the policy.

6. Draft women policy

What is the need for the policy?

- The last national policy on women was National Policy for Empowerment of Women, formulated in 2001.
- Since then significant strides in global technology and information systems have placed the Indian economy on a trajectory of higher growth impacting the general populace and women in particular in unique and different ways.
- Paradigm shifts have occurred –from seeing women as mere **recipients of welfare benefits to mainstreaming gender concerns** and engaging them in the development process of the country.
- These changes have brought forth fresh opportunities and possibilities for women's empowerment while at the same time presenting new and emerging challenges which along with persisting socio-economic problems continue to hinder gender equality and holistic empowerment of women.

What is the aim of the policy?

- The policy aims to create sustainable socio-economic, political empowerment of women to claim their rights and entitlements, control over resources and formulation of strategic choices in realisation of the principles of gender equality and justice.
- The policy envisions a society in which, women attain their full potential and are able to participate as equal partners in all spheres of life.
- The broad objective of the policy is to create a conducive socio-cultural, economic and political environment to enable women enjoy de jure and de facto fundamental rights and realize their full potential.

Priority Areas

- **Health including food security and nutrition:** Focus on recognizing women's reproductive rights, shift of family planning focus also to males, addressing health issues in a life cycle continuum such as psychological and general well-being, health care challenges related to nutrition/hygiene of adolescents, geriatric health care, expansion of health insurance schemes and addressing the intergenerational cycle of under-nutrition

- **Education:** Improve access to pre-primary education, enrolment and retention of adolescent girls, implement innovative transportation models for better schooling outcomes, advocate gender champions and address disparities with regard to ICTs.
- **Economy:** Raising visibility, engendering macro-economic policies and trade agreements, generate gender-disaggregated land ownership database, skill development and training for women, entrepreneurial development, review of labour laws and policies, equal employment opportunities with appropriate benefits related to maternity and child care services, address technological needs of women.
- **Governance and Decision Making:** Increasing women's participation in the political arena, administration, civil services and corporate boardrooms,
- **Violence Against Women:** Address all forms of violence against women through a life cycle approach, Legislations affecting /relating to women will be reviewed/harmonized to enhance effectiveness, Improve Child Sex Ratio (CSR), strict implementation of advisories, guidelines, Standard Operating Procedures (SoPs) and protocols, prevention of trafficking at source, transit and destination areas for effective monitoring of the networks.
- **Enabling Environment:** Gender perspective in housing and infrastructure, ensuring safe drinking water and sanitation, gender parity in the mass media & sports, concerted efforts towards strengthening social security and support services for all women especially the vulnerable, marginalized, migrant and single women.
- **Environment and Climate Change:** addressing gender concerns during distress migration and displacement in times of natural calamities due to climate change and environmental degradation. Promotion of environmental friendly, renewable, non-conventional energy, green energy sources for women in rural households.

What are the Emerging Issues?

- **Redistribution of gender roles** is imperative in a scenario where women are expected and aspire to contribute to the economic development of the country. Efforts should be made to prepare family-friendly policies, which provide for childcare, dependent care and paid leave for women and

men both in organized and unorganized sectors to help employees balance work and family roles.

- Given the **plurality of the personal laws** a review is required of the personal and customary laws in accordance with the Constitutional provisions. This will enable equitable and inclusive and just entitlements for women.
- With **technological advancement**, frauds, misuse of information uploaded on the cyberspace are on rise and hence there is a need for developing protective measures as victims of such frauds are largely women.
- Efforts should be made to ensure the rights of the women adopting **artificial reproductive techniques** i.e. surrogates mothers, commissioning mother along with children born as a result will be protected.
- **Comprehensive social protection mechanism** to recognize special needs of single women including widows separated, divorced, never-married and deserted women should be designed.
- Ecosystem for women to participate in entrepreneurial activities, take up decision-making roles and leadership in all sectors of the economy should be created.

Operational strategies

- **Enabling safety and security of women** – with initiatives such as One Stop Centres, Women Helpline, Mahila Police Volunteers, Reservation of women in police force, creating immediate response mechanism through panic buttons in mobiles, public and private transport, surveillance mechanisms in public places.
- **Creating eco-systems** to encourage entrepreneurship amongst women – through platforms like Mahila E-Haat, dedicated theme based exhibitions, focussed skill training, mentoring through Women Entrepreneurship Council, availability of easy & affordable credit and financial inclusion.
- **Training and capacity building** of all stakeholders including youth through Gender Champion initiative, frontline workers, women sarpanches and all officials dealing with policy and delivery systems impacting women.

- **Facilitating women in workplace** – through gender friendly work place, flexi timings, increased maternity leave, provision of child care / creches at workplace, life cycle health care facilities.

Analysis

The policy has been lauded for

- Identifying contemporary issues like the changing nature of gender roles in “the new millennium, and the dynamics of a rapidly changing global and national scenario”.
- Emphasising on collection of gender disaggregated data and
- Redistribution of gender roles in the household as well as the workplace.
- For viewing sectors otherwise understood to be gender neutral in the light of their impact on women. For example, identifying wives of farmers who commit suicide and providing for their financial sustainability; looking at the gendered impact of climate change; differential impacts of trade policies on women; recognising single women as a separate category of women with specific needsetc
- Understanding the need of regular audits to keep track of the success of all schemes/measures/policies sought to be introduced.
- Reflecting all the major global conventions and platforms on women’s rights.

But there are also some negatives

- The biggest flaw of this national policy, despite intending to be futuristic, is it has not fully shrugged off its welfare perspective with regard to women. It does not wholly commit to the fact that it is the duty and not liability of the government to address the rights of women; rather it continues to posit that women need to be protected and provided for.
- Some of the measures in the policy have failed in its attempts to resolve the issues. e,g The provision of complaints committee in the Sexual Harassment of Women at Workplace Act, 2013 has not been successful. Yet the policy replicates it by proposing to set up another “responsive complaint mechanism” to address discriminatory attitudes within educational institutions.
- A strong, forward-looking set of objectives and focus on certain sharp priorities would have been a much better alternative for the “emerging issues” listed, which are actually quite old.

- The need of the hour is not a one-dimensional solution, such as investment in the institution of crèches. Much improvement is needed in measures and laws that are already in place.
- The national policy needs to be re-written keeping in mind that the distance **from welfare to a rights-based model** cannot be covered only by outlining contemporary issues. The undercurrents of perception towards women of the government, society and law need to change.

7. Draft National Health Policy, 2015

- National Health Policy, 2015 India's third {draft} National Health Policy was released in 2015. Prior to this, two National Health policies (1983 and 2002) had served in guiding the approach for the health sector in the Five-Year Plans and for different schemes
- This National Health Policy addresses the urgent need to improve the performance of health systems.

Aim

- The primary aim of the National Health Policy, 2015, is to inform, clarify, strengthen and prioritize the role of the Government in shaping health systems in all its dimensions investment in health, organization and financing of healthcare services, prevention of diseases and promotion of good health through cross sectoral action, access to technologies, developing human resources, encouraging medical pluralism, building the knowledge base required for better health, financial protection strategies and regulation and legislation for health.

Key Policy Principles

Equity: Public expenditure in health care, prioritizing the needs of the most vulnerable, who suffer the largest burden of disease, would imply greater investment in access and financial protection measures for the poor. Reducing inequity would also mean affirmative action to reach the poorest and minimizing disparity on account of gender, poverty, caste, disability, other forms of social exclusion and geographical barriers.

Universality: Systems and services are designed to cater to the entire population- not only a targeted sub-group. Care to be taken to prevent exclusions on social or economic grounds.

Patient Centered & Quality of Care: Health Care services would be effective, safe, and convenient, provided with dignity and confidentiality

with all facilities across all sectors being assessed, certified and incentivized to maintain quality of care.

Inclusive Partnerships: The task of providing health care for all cannot be undertaken by Government, acting alone.

- It would also require the participation of communities – who view this participation as a means and a goal, as a right and as a duty.
- It would also require the widest level of partnerships with academic institutions, not for profit agencies and with the commercial private sector and health care industry to achieve these goals.

Pluralism: Patients who so choose and when appropriate, would have access to AYUSH care providers based on validated local health traditions.

- These systems would also have Government support and supervision to develop and enrich their contribution to meeting the national health goals and objectives.
- Research, development of models of integrative practice, efforts at documentation, validation of traditional practices and engagement with such practitioners would form important elements of enabling medical pluralism.

Subsidiarity: For ensuring responsiveness and greater participation, increasing transfer of decision making to as decentralized a level as is consistent with practical considerations and institutional capacity would be promoted.

Accountability: Financial and performance accountability, transparency in decision making, and elimination of corruption in health care systems, both in the public systems and in the private health care industry, would be essential.

Professionalism, Integrity and Ethics: Health workers and managers shall perform their work with the highest level of professionalism, integrity and trust and be supported by systems and regulatory environment that enables this.

Learning and Adaptive System: Constantly improving dynamic organization of health care which is knowledge and evidence based, reflective and learning from the communities they serve, the experience of implementation itself, and from national and international knowledge partners.

Affordability: As costs of care rise, affordability, as distinct from equity, requires emphasis.

- Health care costs of a household exceeding 10% of its total monthly consumption expenditures or 40% of its non-food consumption expenditure- is designated catastrophic health expenditures- and is declared as an unacceptable level of health care costs.
- Impoverishment due to health care costs is of course, even more unacceptable.

Highlights

Increasing Public Health Expenditure

- Draft NHP-2015 envisages increasing the public expenditure to health from present 1% to 2.5% of GDP.
- However, the draft neither gives a timeline to achieve this nor explains how funds will be mobilized except increasing taxes on alcohol and tobacco, gains from medical tourism and possibility of creating a health cess on the lines of education cess.
- The proposed cess will come from industries that are unhealthy and toxic: “Extractive industries and development projects that result in displacement or those that have negative impacts on natural habitats or the resource base can be considered for special taxation extractive”

National Health Rights Act

- The policy calls for making health as justifiable right and envisages enactment of National Health Rights Act in order to make health a fundamental right.

Private Participation

- The policy envisages private participation in delivering the health services through a well networked public health delivery system. Further, it calls for ensuring universal access to free drugs and diagnostics in government hospitals.

Non-communicable Diseases

- For the first time, Non-communicable Diseases (NCDs) have been included in the national health policy. In recent decades, the NCDs have emerged as major cause of mortality in India.

National Urban Health Mission (NUHM)

- There is a special focus on the urban poor and the policy underlines the need to set up a National Urban Health Mission (NUHM).

Urban ASHAs

- The policy calls for developing a cadre of urban accredited social health activists (ASHA).
- The policy also calls for greater synergy and cooperation between ASHAs and auxiliary nurse midwives (ANMs).

Health Research

- The policy underlines the importance of health research in the country and makes a case for a Department of Health Research though not much detail about its function has been given.
- Policy also talks about need for India to contribute to global health research, and develop its own policy in international health and health diplomacy.
- It says that India should be an equal partner rather than mere recipient of technical assistance in field of health.

8. Hydrocarbon Exploration and Licensing Policy

Background

- The New Exploration Licensing Policy (NELP) was formed in 1997-98 for exploration and production of oil and natural gas (excluding coal bed methane) and separate coal bed methane (CBM) policy was formulated.
- The main objective of NELP was to provide level playing field for both the public and private sector companies in exploration and production of hydrocarbons.
- The policy opened the exploration and production to private and foreign investment with 100% FDI.

Problems with NELP

- There are separate policies and licenses for different hydrocarbons such as conventional oil and gas, coal-bed methane, shale oil and gas and gas hydrates.
- Unconventional hydrocarbons (shale gas and oil) were unknown when NELP was framed.

- The production Sharing Contracts (PSCs) under NELP are based on the principle of “profit sharing” (i.e.) company is expected to share with the Government the profit. It leads to delay in implementing the projects.
- The exploration is confined to blocks which have been put on tender by the government.
- The pricing of gas in the current system is fixed administratively by the Government. This led to loss of revenue and large number of disputes.

Hydrocarbon Exploration and Licensing Policy (HELP)

This policy is formulated to replace NELP and objectives of HELP are

- To enhance domestic oil and gas production
- Bring substantial investment
- Generate sizable employment
- Enhance Transparency
- Reduce administration discretion.

Four main aspects of this policy

- **The Uniform license** for exploration and production of all forms of hydrocarbons enables the contractor to explore conventional and unconventional oil and gas resources under a single license.
- **An open acreage policy** – It gives the option to a hydrocarbon company to select the exploration blocks throughout the year without waiting for the formal bid from the government.
- **Revenue sharing model** – The Government will not be concerned with the cost incurred and will receive a share of the gross revenue from the sale of oil & gas.
- **Marketing and pricing freedom** – It provides the freedom of marketing and pricing to the gas production subject to ceiling price limit.

Other features of HELP are

- Exploration is allowed through-out the contract period.
- Exploration phase for onshore areas have been increased and concessional royalty regime will be implemented for deep water and ultra-deep water areas.

Impacts of this policy

- The revenue sharing model of this policy reduces the government intervention in scrutinising the profit accumulated in implementing the property. This is in tune with the policy of “**Ease of Doing Business**”.

- The policy provides the marketing freedom for crude oil and natural gas, which is in tune with the policy of “**Minimum Government and Maximum Governance**”.
- This new hydrocarbon policy can help India reduce its import dependency.
- As per the IEA report, India has proven oil reserves of 5.7 billion barrels compared with an annual crude demand of 1.4 billion barrels and gas resources are projected to be much larger than recoverable reserves. Thus this policy provides ample opportunity to speed up the exploration process.
- Finally HELP 2016 is more about gas than oil, giving more thrust to natural gas which is the cleanest fossil fuel and also has lower amounts of sulphur dioxide and nitrous oxides than other fossil fuels.

Thus this policy aims to achieve the target of cutting the crude oil import dependence to 67% by 2022. This target was set by Prime Minister last year.

9. IPR Policy 2016

IPR Policy 2016 – The Context:

- India has now become a major source of R&D service imports to the US economy, and the American MNCs are unlikely to resort to FDI in R&D if they think that the country has an extremely weak IPR regime.
- Surveys conducted have considered India as the preferred location for R&D processes. Further, the number of patents granted to foreign residents has always far exceeded the number issued to Indian inventors by the Indian Patent Office.
- The fact that in the recent past patents have been rejected by Indian courts, all well within legal limits, has been blown out of proportion by those against India’s patent regime.
- The forthcoming Trans-Pacific Partnership (TPP), which effectively is going to be far more powerful than the WTO, also insists on a strong IPR regime.

Innovation push

National IPR Policy: Main proposals

- Tax breaks to promote R&D; simpler procedures to get benefits
- Create a cell to facilitate promotion, creation and commercialisation of IP assets
- Loan guarantee scheme to cover risk of failures in commercialisation
- Promote infusion of funds to public R&D units as a part of CSR
- US, EU demand of dropping Section 3(d) disallowing 'evergreening' ignored
- Strengthening enforcement mechanisms for better protection of IP rights
- Adjudicate IP disputes through commercial courts
- Making IPR an integral part of the curriculum in all legal, technical, medical and management educational institutions

All about Patents & Trademarks

As many as 2,37,671 patent applications are pending with the country's four patent offices in Delhi, Mumbai, Chennai and Kolkata

The details of applications filed for grant of patents and registration of trademarks are as follows:

Year	Patents			Trademarks		
	Filed	Granted	Rejected	Filed	Granted	Rejected
2014-15	42,774	5,978	1,380	2,10,501	41,583	8,305
2015-16*	27,933	3,581	605	1,50,814	37,799	6,543

*31.10.2015

The Centre has taken several measures to clear the pending applications:



- 373 additional posts in the Patents Wing sanctioned
- 459 vacant posts of Examiners of Patents and Designs are being filled
- 108 additional posts in Trademarks Wing have been created
- E-Register of Patents with all information including renewals, assignments and other legal status available for public

The Policy:

The seven objectives of policy can broadly be divided into three categories,

1. Those dealing with popularisation and strengthening the administrative machinery for dealing with IPR issues (objectives 1, 4 and 7);
2. Those dealing with the generation and commercialisation of IPRs (objectives 2 and 5);
3. Those dealing with legal aspects, enforcement, and adjudication (objectives 3 and 6).

1. Enforcement and Adjudication:

- The policy document is a bit ambivalent here. It states that India's IPR laws are TRIPS compliant, and the legal systems governing IPRs are firmly committed to the Doha Declaration on TRIPS Agreement and Public Health.
- Then it goes on to argue that existing IP laws may be reviewed where necessary, to update and improve them or to remove anomalies and inconsistencies.
- It does not, however, state in clear terms what it considers an anomaly or inconsistency.

- Does it mean that Sections 3(d) and 3(k) are anomalies and inconsistencies as pointed out by organisations such as the GIPC and the US government?

Section 3(d):

- The 2005 Act defines that a “novelty” standard along with “non-obviousness” or “inventive step” and industrial applicability are the three prerequisites for “patentability.”
- Discoveries were excluded from patent protection. In very specific terms, Section 3(d) of the 2005 Act states that: “... the mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance is not patentable.”
- The US government have been relentlessly pursuing the Indian government, even using the trade sanctions under 301, for a review of the contentious Section 3(d).

Section 3(k):

- It deals with an unconditional exclusion of mathematical and business methods, computer programmes per se, and algorithms from patentable subject matter.
- There are strong welfare arguments against patenting of software per se, as most inventions in computer software are incremental in nature and patenting of an earlier step will erect strong legal barriers to inventions in later steps.
- In India, attempts have been made to have software patents was thwarted by intense opposition against it both within and outside Parliament.

Other issues:

- However, the policy has been rather cautious on certain issues like the protection of trade secrets for which no legislation exists in India at the moment.
- Technology transfer, especially in the context of clean energy and environmental technologies, is another area that is touched upon and rightly so in the present policy.
- The present policy document is completely silent on incorporating utility models in India’s IPR legislation. Utility models or petit patents are the right sort of IPR mechanisms for incremental innovations carried out, especially by SMEs.

2.Generation and Commercialisation of IPRs:

- The policy has laid great emphasis on the generation and commercialisation of IPRs, especially patents. This is because a lion's share of the patents granted by the Indian Patent Office in and by Indian inventors in foreign jurisdictions has gone to MNCs.
- However, most of the measures that are proposed for generation of IPRs are for popularising the notion of patents by superficial means (for ex: a train with a theme that will crisscross the nation etc.,).
- The fact that India has one of the most generous R&D tax regime has completely escaped the attention of the think tank. This further indicates that the policy is not evidence-based.
- Innovative activities in India are concentrated to a few firms in a select number of industries. Firms have to be large to invest in R&D – to invest in R&D that can yield patents.
- One of the major constraints for patent creation is the fact that they do very little R&D – due to the fact that the country has very few scientists and engineers engaged in R&D.
- A further issue is the quality of these patents. Forcing inventors, through artificial means, result in low quality frivolous patents (Ex: CSIR with respect to patenting).

Other issues:

- The bill stressed on the creation of IPRs as a form of accountability, inspired by the Bayh–Dole Act of 1980. This will likely take away creativity from universities and research institutions and instead promote crass competition between scientists.
- Careful studies done in the US context too have not found the Bayh–Dole Act to be very beneficial in making the US universities generate more patents.
- The government is already committed to incentivising the commercialisation of patents. In the union budget 2016–17, the finance minister has announced a patent box type of incentive for the first time.
- The introduction of patent box encourages output of R&D. The policy document, however, makes no reference to this already implemented policy initiative.

- The section on commercialisation of IPRs recommends the encouragement of domestic production of active pharmaceutical ingredients and revitalising public sector undertakings in the health sector.
- This is a very worthy and laudable objective but should be included in the pharmaceutical policy instead of a policy on IPRs.

3. Administering IPR Issues:

- This is perhaps the most positive aspect of the policy document. Commentators in the past have pointed out three problems with the way IPRs are administered in the country.
- The first problem deals with the administration of the various IPR legislations being handled by a disparate number of organisations.
- The new policy has now recommended just two organisations—the Controller General of Patents Designs and Trademarks (CGPDT) to be still responsible for patents, trademarks, designs, geographical indications and such.
- While the DIPP will become de facto the nodal agency for administering IPRs in the country, as the Indian Patent Office too is a subordinate office under the DIPP.
- The second one deals with the functioning of the Indian Patent Office itself, which is staffed by a small number of patent examiners.
- Two problems are often raised. The first one is the very high pendency rate owing to the small number of examiners the patent office has. The second one is, owing to the small number of patent examiners, that the quality of patent examination itself is suffering.
- The proposed reform, which includes recruitment of more patent examiners, modernisation of the patent office, and the training of patent examiners in best practices in patent examination from some of the best jurisdictions.
- There are other challenges too: one of which deals with timely publication of detailed data on IPR applications; grants and the detailed data on pre- and post- grant opposition to patents; and also detailed data on working patents.
- However, the new IPR policy has nothing much to say on this important aspect that would have given a real fillip to evidence-based policymaking in the area of innovation.

Conclusion:

- The fact that IP laws can be reviewed and updated to remove inconsistencies and anomalies, as mentioned in the policy, raises a concern whether some of the TRIPS flexibilities built into our IPR regime—which has made India's TRIPS compliant IPR regime a sort of model for the developing world—would be subject to changes in response to intense lobbying by MNCs.

10. FDI Policy

The Union Cabinet has given its ex-post-facto approval for the FDI policy amendments announced by the Government on 20th June, 2016.

The FDI policy amendments are meant to liberalise and simplify the FDI policy so as to provide ease of doing business in the country leading to larger FDI inflows contributing to growth of investment, incomes and employment.

Background

Government has brought major FDI policy reforms in a number of sectors like Defence, Infrastructure, Broadcasting, Food, Manufacturing and Civil Aviation.

Measures undertaken by the Government have resulted in increased FDI inflows at US\$ 55.46 billion in financial year 2015-16, as against US\$ 36.04 billion during the financial year 2013-14.

This is the highest ever FDI inflow for a particular financial year. However, it was felt that the country has potential to attract far more foreign investment which can be achieved by further liberalizing and simplifying the FDI regime. The objective of providing major impetus to employment and job creation in India these changes were made.

Changes introduced in the policy included increase in sectoral caps, bringing more activities under automatic route and easing of procedures for foreign investment.

Food Products

- It has now been provided that 100% FDI under government route for trading, including through e-commerce, is permitted in respect of food products manufactured/produced in India.

Defence Sector

- Earlier FDI regime permitted 49% FDI participation in the equity of a company under automatic route. FDI above 49% was permitted through Government approval on case to case basis, wherever it is likely to result in access to modern and 'state-of-art' technology in the country.
- Now, FDI beyond 49% has now been permitted through government approval route wherever it is likely to result in access to modern technology or for other reasons to be recorded.
- FDI limit for defence sector has also been made applicable to Manufacturing of Small Arms and Ammunitions covered under Arms Act 1959.

Broadcasting Carriage Services

- FDI policy on Broadcasting carriage services has also been amended with new sectoral caps and entry routes for sectors like Teleports, DTH, Cable Networks, Mobile TV, Head end-in-the Sky Broadcasting Service(HITS) are permitted 100% FDI under automatic route.

Pharmaceutical

- The earlier FDI policy on pharmaceutical sector provides for 100% FDI under automatic route in greenfield pharma and FDI up to 100% under government approval in brownfield pharma.
- Now, with the objective of promoting the development of this sector, 74% FDI under automatic route has been permitted in brownfield pharmaceuticals. FDI beyond 74% would be permitted through Government approval route.

Civil Aviation Sector

- With a view to aid in modernization of the existing airports to establish a high standard and help ease the pressure on the existing airports, 100% FDI under automatic route has now been permitted in Brownfield Airport projects.

Private Security Agencies

- Earlier policy permitted 49% FDI under government approval route in Private Security Agencies.
- Since Private Security Agencies are already required to get license under PSAR Act 2005, the requirement of putting them through another line of Government approvals through FIPB has now been done away with for FDI up to 49%.

- Accordingly, FDI up to 49% is now permitted under automatic route in this sector. FDI beyond 49% and upto 74% is permitted through Government approval route

Animal Husbandry

- As per FDI Policy 2016, FDI in Animal Husbandry is allowed 100% under Automatic Route under controlled conditions.
- The requirement of ‘controlled conditions’ for FDI in these activities has now been done away with.

11. Model bilateral investment treaty

What is a bilateral investment treaty (BIT)?

- A BIT is a treaty between two countries that sets out to provide certain basic protections to the investors of one state investing in another.
- For instance, most such treaties provide investors a guarantee of “fair and equitable treatment” – the clause, to draw an analogy from constitutional law, is broadly akin to the right of equality and protection against arbitrary state action.
- **Other protections include:** rights against “expropriation”, both direct and indirect, of an investors’ investment; and a Most Favoured Nation (MFN) provision, which guarantees an investor a treatment not less favourable than a treatment afforded to any other investor claiming rights under any other BIT.
- Countries develop a model BIT to use as a template to negotiate investment treaties, but on its own, a model BIT has very limited legal value. Most of India’s existing BITs, signed with more than 70 countries, are based on the 2003 model.

What is the need for a new model BIT?

- In 2011, White Industries, an Australian entity, succeeded in obtaining a foreign arbitral award against Coal India Ltd. White Industries had initiated proceedings for enforcement of this award before Indian courts and for about 10 years, the said proceedings did not progress. White Industries argued that it had been denied “effective means” of enforcing its rights in relation to its investment, a protection incorporated into the India-Australia BIT by virtue of an MFN clause it contained. The arbitral tribunal accepted the plea and India was forced to pay a huge price for the delays caused by its judicial system.

- Since then award 17 investors have issued notices of arbitration against India.
- Provoked by foreign investors suing India under different bilateral investment treaties (BITs), the government recently adopted a new model BIT, after the changes by the LCI are adapted to the draft model.
- The 2015 model BIT replaces the 2003 model, which was fairly investor-friendly. The adoption of the new model BIT heralds a new era in India's engagement with foreign investment and investment treaty practice.

What was the model draft?

- The Model Draft protected the interests of the government; however, it failed to provide some level of cushioning to foreign investors by
- Drastically narrowing down the protection for investors.
- Providing an extremely narrow definition of investment
- Deleting the mfn clause
- Providing for the exhaustion of remedies on the one hand and for the decision of the court to be binding on the arbitral tribunal on the other and finally
- Providing for a number of exceptional self-judging state actions, which would not be within the purview of challenge before an arbitral tribunal set up pursuant to the dispute resolutions contained in the BIT.
- It was, therefore, necessary for a new draft, which would find the right balance between the rights of the government and the rights of the investors.
- For this reason, the Law Commission of India (LCI) set up a sub-committee to submit a report.

What were the recommendations of LCI?

The 20th LCI in its 260th report gave following recommendations to

- Modify the highly narrow 'enterprise-based definition' of investment to a broader and universally accepted 'asset-based definition'. An enterprise-based definition would mean that a foreign investor who did not set up an enterprise in India to carry on business would have absolutely no protection.
- Incorporate of a "denial of benefits" clause, wherein an investor is denied the benefits of a treaty if it involved in corrupt practices or should it act contrary to the laws of the country.

- Amend certain provisions of the dispute resolution mechanism contained in the Model Draft.
- It reiterates the stand adopted in the Model Draft that the MFN must not be incorporated since India might chose to provide differential benefits to trading partners based on the extent of incoming investment from a country.

What are the provisions in the Final model?

- The final model has done the right thing by removing the requirement of appropriation of value of investment and limiting the test of indirect expropriation to substantial or permanent deprivation of foreign investment.
- It has retained the 'enterprise'-based definition of investment as was in the draft model. Thus, only foreign enterprises legally constituted in India can bring a BIT claim.
- It has done away with the requirement that only those foreign enterprises that have real and substantial business operations in India, which included proving the undefined requirement of engaging a 'substantial number of employees', could benefit from the treaty protection. This would have knocked out a large part of foreign investment from the ambit of treaty protection and thus diluted its significance.
- The draft model BIT provided that the issuance of compulsory licenses (CLs) would be outside the ambit of the treaty, if such issuances were consistent with domestic law, such as for a patented drug. However, in the final model BIT the issuance of CLs will be outside the treaty's ambit only if such an issuance is consistent with the WTO treaty.
- The final model BIT retains certain things from the draft model such as
- Excluding taxation from the purview of the treaty,
- Not having the most favoured nation (MFN) provision and
- The condition to have to exhaust local remedies before proceeding for international arbitration.

The way ahead

There are three pertinent points to consider when deciding the future course of action.

- Does India wish to renegotiate its BITs based on the new model with countries where it is largely an exporter of capital? This would include renegotiating with many African and Asian countries, with whom India stands to benefit from the current investor-friendly BITs.
- What would India do if a country refuses to renegotiate? Would it terminate the existing BIT? If yes, the survival clause ensures the existence of the BIT for the next 15 years.
- Newly negotiated BITs based on the new model would mean less treaty protection for Indian investment abroad. This is especially important considering that outward foreign investment from India has increased significantly over the past few years.

12. DRAFT GUIDELINES FOR SAFE HANDLING OF NANO MATERIALS

- A task force of eminent experts under the Nano Mission by the Department of Science and Technology has come out with the draft “Guidelines and Best Practices for Safe Handling of Nano materials in Research Laboratories and Industries “
- Involving the control of matter at nano scale, nano materials are characterized by small dimensions, large surface area and high reactivity.
- They are amenable to a large variety of applications in various sectors.
- But they are potentially dangerous for human health and environmental safety, with considerable scientific uncertainty regarding risks.

The Guidelines

- The draft guidelines, basically intended as standard operating procedure (SOP) for handling nanomaterials in research laboratories and industries, prescribe a combination of engineering controls, work practices and personal protective equipment as part of a robust exposure control strategy.
- These lay down the process for identifying hazards, taking note of the specific effect of surface chemistry, shape, size and morphology on toxicity caused to various organs.
- These address the potential exposure pathways and concomitant safety measures to mitigate the same.

- While prescribing certain best practices for handling nanomaterials generally, the guidelines also lay down another set of best practices specifically pertaining to the making and handling of nanopowders and use of products relating to food and healthcare.
- A precautionary approach is advocated with detailed life cycle assessment and strong binding procedures with respect to stakeholder involvement for various players while formulating best practices in the food sector particularly.
- They prescribe a combination of engineering controls, work practices and personal protective equipment as part of a robust exposure control strategy.
- They lay down the process for identifying hazards, taking note of the specific effect of surface chemistry, shape, size and morphology on toxicity caused to various organs
- These address the potential exposure pathways and necessary safety measures to mitigate the same
- A precautionary approach is advocated with detailed life cycle, assessment and strong binding procedures with respect to stakeholder involvement for various players while formulating best practices in the food sector particularly.

The challenges

- Where most of the developed countries focus on regulating its risk , India is almost single minded about focussing on promotion of nano materials in initial years .
- A large number of nano based products are already out in the markets without any regulation.
- Few Indian scientists take special precautions while working with nano materials.
- Very few are interested in taking up risk researches.
- A very small number of projects are being publically funded to look into toxicity issues.
- There is almost no engagement with the social sciences and humanities due to lack of funding.
- There are lack of resources, expertise and regulatory mandate.

The solutions

- Enhance public engagement.
- Participation of civil society organisations.
- More funding on risk research.
- Creating of new laws for regulation of nano materials.
- Establishment of a regulatory framework.

Self regulation

- Adoption of information regulation which obliges the government to disclose the related information and leaves the responsibility to the third party.
- The Chemical Rules should be amended so that they can be applied to nano materials.

Conclusion

- Nano materials are a useful development but only when they are used by due care and precaution.
- The Government of India has spent a huge amount of money for its success, but the project will only be successful if appropriate risk research is carried out.

13. National Capital Goods Policy 2016

Background

- 'National Capital Goods Policy' was first presented by the Department of Heavy Industry to the Prime Minister in the 'Make in India' workshop held in December, 2014.
- The aim of the policy is create game changing strategies for the capital goods sector.
- The key recommendations and elements of the policy have been formulated to support and boost development of this crucial sector
- The policy has been finalized after extensive stakeholder consultations with industry, academia, different ministries etc.
- Some of the key issues addressed include availability of finance, raw material, innovation and technology, productivity, quality and environment friendly manufacturing practices, promoting exports and creating domestic demand.

National Capital Goods Policy

The Union Cabinet, chaired by the Prime Minister Shri Narendra Modi has given its approval for National Capital Goods Policy. This is first ever policy for Capital Goods sector.

Objectives

- To increase production of capital goods from Rs.2,30,000 crore in 2014-15 to Rs.7,50,000 crore in 2025 and raising direct and indirect employment from the current 8.4 million to 30 million.
- The policy envisages increasing exports from the current 27 percent to 40 percent of
- It will increase the share of domestic production in India's demand from 60 percent to 80 percent thus making India a net exporter of capital goods.
- The policy also aims to facilitate improvement in technology depth across sub-sectors, increase skill availability, ensure mandatory standards and promote growth and capacity building of MSMEs.

Ministry in charge

- The objectives of the policy will be met by the Department of Heavy Industry, Ministry of Heavy Industry and Public Enterprises in a time bound manner through obtaining approval for schemes as per the roadmap of policy interventions.

Need for the policy

- India's manufacturing contributes approximately 2 percent of the world's gross value added and 17 percent for its own economy. To sustain its economic growth over the coming decades, manufacturing is identified as critical and also a prerequisite to employ millions of youth entering its labour market every year.
- In a draft submitted in 2015, capital goods sector was reported to contribute 12 percent of India's manufacturing output, in turn translating into 2 percent of India's gross domestic product (GDP).
- Its multiplier effect on overall economic growth, by way of providing the durable secondary consumption goods, was noted as significant.
- A globally competitive and dynamic capital goods sector is to bear a similar effect on India's manufacturing.

Advantages

- The Policy will help in realising the vision of 'Building India as the World class hub for Capital Goods'.

- It will also play a pivotal role in overall manufacturing as the pillar of strength to the vision of 'Make in India'.
- It also advocates adoption of a uniform Goods and Services Tax (GST) regime ensuring effective GST rate across all capital goods sub-sectors competitive with import duty after set-off with a view to ensure a level-playing field.

14. National Drug Policy – A Comprehensive Approach

Background:

- Government is planning a major overhaul of the country's drug policy that includes reducing the number of drugs under price control, doing away with the practice of periodic renewal of manufacturing licences, and making it easy to do medical and drug research in the country.
- Such an initiative will need to navigate a **complex system administered by a maze of entities**: a health ministry that draws up the National List of Essential Medicines; a chemicals and fertilisers ministry that oversees the Department of Pharmaceuticals, which owns the National Pharmaceutical Pricing Authority; a commerce ministry that houses the Department of Indian Policy and Promotion responsible for protecting intellectual property rights (IPR); drug marketing approvals are issued by state governments.

Price control – Should not be the only focus of Drug Policy:

- Fixing prices discourages manufacturers from entering the marketplace – Rather, promoting competition would lead to prices coming down.
- The biggest barrier to healthcare access is the inability to pay out-of-pocket and the lack of health insurance. Health coverage under government schemes does not extend to medicines or doctor visits.
- Price control also hampers domestic investment in Pharmaceutical sector, thereby adversely impacting "Make in India"
- Indian drugs are already among the cheapest in the world.
- All across the world, any control or negotiation of drug prices is backed by government reimbursement policies. The benefit of bulk volume procurement also offsets the price reduction – Thus without Government support imposing price control would be detrimental to the industry.

Factors to be considered when developing a pricing framework:

- Our pricing policies **must recognise medicines as an economic investment in health** rather than a cost to be incurred. Because medicines cure diseases, improve quality of life and build healthier and more productive population.
- **Drug discovery is a lengthy process** and it takes almost 10-15 years and over \$2 billion to develop a new medicine and make it available to patients.
- **Innovators need the assurance that research will be rewarded.** Intensive investment in the development of innovative medicines requires a predictable and transparent policy environment that will foster medical advancement.

Partnering with Pharmaceutical companies:

- Government and Pharmaceutical companies could partner, to revive the Jan Aushadhi programme and help deliver high-quality **generic medicines at affordable prices to all.**
- Generic medicines exist because someone has invested in research to develop new medicines.
- Patented medicines feed the pipeline for generic medicines and protecting IPR is fundamental to the creation of cures that extend and improve lives.

Issues to focus, other than drug pricing:

- India should prioritise healthcare, strengthen healthcare infrastructure and focus on skill development for healthcare professionals.
- Incentives or Government support in the form of “Viability Gap Funding” is essential for promoting Pharmaceutical research.
- Biocon CMD Kiran Mazumdar Shah had mentioned previously that, lack of trained manpower to carry out research is a major impediment to promoting Pharmaceutical research in the country – This has to be addressed.
- We have to put in place a mechanism, where Pharmacy colleges can work along with Pharmaceutical industry to impart requisite industry specific skills to the students.
- Raise public health spending, from the current 1 per cent to at least 2.5 per cent.
- “Prevention is better than cure” – Hence, adequate focus has to be laid on “Preventive” measures. These include improving nutritional status, better

sanitation facilities, Waste management in urban and rural areas and vector control programmes to name a few.

- Plan and establish a comprehensive healthcare system in the country – with multi-tier model to optimally employ the available resources (funds and manpower) for managing community healthcare needs.
- Also, various measures will have to put in place to control rampant and unregulated “over the counter” sale of medicines without prescriptions – Primary cause of antibiotic resistance and also a major source for substance abuse.

15. National Mineral Exploration Policy (NMEP)

Aim

- The NMEP 2016 (non-fuel and non-coal minerals) aims at accelerating the exploration activity in the country through enhanced participation of the private sector.
- There is a need for comprehensive mineral exploration of the country to uncover its full mineral potential.
- Through that country can maximize sectoral contribution to the Indian economy.

Background

- The exploration sector has been largely untapped in the country. Only 10 per cent of the 8 lakh sq km potentially resource-bearing area has been explored.
- The Ministry of Mines has taken a series of measures for the growth of the mineral sector, including allowing 100% FDI. From 2006, 100% FDI in the mining sector has been permitted through the automatic route). Yet, the results had been far from satisfactory.
- The amendment made in The Mines and Minerals (Development and Regulation) MMDR Act in 2015 is a step towards the development of mine sector. This is expected to bring in transparency, expeditiousness and simplification in procedures in grant of mineral concessions.
- Against this background, the NMEP has been framed so as to provide a new set of objectives for exploration within the amended legal framework.

NMEP features

- Government will engage private agencies for carrying out exploration through auction in identified blocks with the right to certain share in the revenue accruing to the State government through auction.
- The baseline geo-scientific data will be created as a public good and will be fully available for open dissemination free of charge. This is expected to benefit public and private exploration agencies.
- The government intends to launch a initiative to probe deep-seated/concealed minerals deposits in the country in collaboration and Geoscience Australia.
- A National Aerogeophysical Mapping program will be launched to map the entire country with low altitude and to acquiring state-of-the-art baseline data for targeting concealed mineral deposits.
- A National Geoscientific Data Repository (NGDR) is proposed to be set up to collate all mineral exploration information generated by government agencies to maintain the details on geospatial database.
- It proposes to establish the National Centre for Mineral Targeting (NCMT) in collaboration with scientific & research bodies, universities for scientific research to address the mineral exploration challenges in the country.
It will also enhance quality research in a public-private partnership (PPP).
- Public expenditure on regional and detailed exploration will be prioritized and subject to periodical review based on assessment of criticality and strategic interests.

Impacts of NMEP

- NMEP is expected to boost private investment & FDI in the country's mineral exploration sector.
- It is aimed at attracting both domestic and foreign mining companies in exploration jobs.
- In doing so it is poised to break the monopoly of the state-owned enterprises.
- The policy will pave the way for competitive bidding of prospective mineral blocks through the process of e-auction.
- With more investment in the mining, more jobs are likely to be generated in the sector.

- The new policy has incentives for the explorer since the owner of the mining lease is required to pay royalty to the state government and an equal percentage to the private exploration company.
- It will facilitate dissemination of information in mineral data. Unless information is available mining companies cannot take a call on investment
- It will provide useful interpretation of the geoscience data and could spur more investment in lower altitude and higher resolution surveys.
- Exploration, which is fraught with risks and is time consuming. Government assured that if the explorer agencies do not discover any auctionable resources, their exploration expenditure will be reimbursed.

16. New Educational Policy

BACKGROUND:

- The draft National Education Policy (NEP) brought out recently by the Ministry of Human Resource Development.
- The new NEP comes after a gap of 30 years. The last one, announced in 1986, was later revised in 1992.

AIM

- The aim of the new policy is to meet the changing dynamics of the population's requirement with regards to quality education, innovation and research.

Public schools in India- Some key facts

- Section 6 of the RTE Act obligates states to establish public schools in all neighbourhoods, thus binding states to create more of the kind of non-accountable public schools that parents are deserting(exit by middle class)
- From 2011 to 2015, despite an increase of 9,448 public schools, total enrolment in public schools fell by 1.13 crore students and enrolment in private schools rose by 1.85 crore students in India, as per official DISE data
- Out of the total 10.53 lakh public elementary schools in the country, 3.72 lakh (or about 35% of all) public schools had 50 or fewer students.
- A monumental teacher salary bill of Rs 41,630 crore in 2014-15, clear sign of wastage of scarce public resources.

Hence with a view of addressing this lacunae, government formed TSR Subramaniam committee to draft a New Education Policy.

New Education Policy- Mandate:

- Inclusive quality education and lifelong learning opportunities for all.
- Producing students/graduates equipped with the knowledge, skills, attitude and values that are required to lead a productive life.
- Participate in the country's development process.
- Respond to the ever changing requirements of a globalizing, knowledge based society.
- Develop responsible citizens who respect the Indian tradition of acceptance of diversity of India's heritage, culture and history as well as promote social cohesion and religious amity.
- The vision recognizes the central role of education in India's economic, social, political and cultural development.

The criticism

- It candidly acknowledges the widespread corruption, lack of accountability and reform-blocking teacher unions and shies away from coming up with convincing remedies for the frightening disease.
- With its huge number of proposed reforms, the NEP is impractical and in danger of suffering the same oblivion as the 1986 NEP which was also a wish list of policies without an overarching theme.
- While the draft NEP does delineate some accountability-raising measures, most proposals are weak and vague, e.g.
- Teacher accountability will be resolved with strong political consensus-but how consensus will be forged is not specified.
- Principals will be held accountable for the academic performance of the school, Programmes for enhancing accountability of teachers will be accorded priority- but who will do these in what time frame is not specified.
- The draft NEP says that "efforts will be made to convert existing non-viable schools into composite schools for better academic performance and cost effective management- this would prove to be a far cry, unless teacher accountability is reinforced.

NEGATIVES

- Several policy committees and commissions have been appointed in higher education over the last decades. But non-implementation of the recommendations made is the main problem, due to which policies seldom get translated into programmes.
- The key issue is the lack of good governance.

- The confrontation between bureaucrats and academicians has paralysed the governance in the university system.
- The NEP draft report does not offer equitable access for even children less than 10 years of age.
- The policy proposes alternative schools for very deprived sections, migrant families and people in difficult circumstances. But under that system, same type of education is denied to all children.
- The NEP proposes National Level Talent Exam after Class X. But for those who studied in alternative schools between classes I and V, alternative education of level B between classes VI and VIII will prove to be a disadvantage in the talent exam and the policy is pushing them out of main stream education
- Allocation as a whole has not exceeded four per cent.
- The NEP gave importance to commercialisation.
- The NEP is totally against the welfare of student community.

SOLUTIONS

- The bureaucratic control over higher education system to be replaced.
- Quality check in terms of academics and accountability of universities.
- Good governance system.
- The NEP should suggest ways to bring about a University Act.
- A basic model, which need not infringe upon states, can be developed. Based on that framework, every state can bring an Act and adopt it uniformly in all the universities in their respective states. When Acts can be common, statutes can be discipline-specific and then the governance system will become more competent and comprehensive.
- The NEP has envisioned vocationalisation at the bottom level through skill development, rationalisation at entry level through common test, digitisation through Massive Open Online Courses at the middle level and professionalisation through governance reforms at the top level.
- On school education front, the approach to improve teacher education will give a much needed impetus to school output.

Way ahead

To raise accountability, the government needs to introduce what almost all good education systems around the world do:

- Funding should be made dependent on a school's number of students, then schools have a financial stake in giving good education in order to attract and retain students.
- Voucher to parents:- giving per-student funding to schools indirectly, via a school voucher to parents (Direct Benefit Transfer, or DBT), fosters greater accountability since it empowers parents.
- Amending Article 171 (3c) of the Constitution, to do away with teachers' guaranteed representation in the state legislature, which has turned teachers into politicians.

17. START UP INDIA POLICY

Definition of START-UP

- Start-up means an entity, incorporated or registered in India not prior to five years, with annual turnover not exceeding **INR 25 crore** in any preceding financial year, "working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property", provided that such entity is not formed by splitting up, or reconstruction, of a business already in existence.
- An entity shall cease to be a Start-up if its turnover for the previous financial years has exceeded INR 25 Crore or it has completed **5 years from** the date of incorporation/ registration.
- A Start-up shall be eligible for tax benefits only after it has obtained certification.

What is start-up India policy??

- Start-up India is a **flagship initiative** of the Government of India, intended to build a strong eco-system for nurturing innovation and Start-ups in the country that will drive sustainable economic growth and generate large scale employment opportunities.

Objective

- The main aim of action plan is to give **impetus to innovation and encourage the talent** among young people and remove onerous government regulations and red tape.

Key features

- **Self-certification** start-ups for procedural simplification and to reduce regulatory liabilities.
- It will apply to laws including payment of gratuity, labour contract, provident fund management, water and air pollution acts, etc.
- In case of the labour laws, no inspections will be conducted for a period of 3 years.
- Startups may be inspected on receipt of credible and verifiable complaint of violation, filed in writing and approved by at least one level senior to the inspecting officer.
- In case of environment laws, Start-ups which fall under the 'white category' (as defined by the Central Pollution Control Board (CPCB)) would be able to self-certify compliance and only random checks would be carried out in such cases.
- **Start-up India hub(SIH)**-An all-India hub will be created as a single contact point for start-up foundations in India.
- The SIH will be a key stakeholder in this vibrant ecosystem and will work in a hub and spoke model and collaborate with Central & State governments, Indian and foreign VCs, angel networks, banks, incubators, legal partners, consultants, universities and R&D institutions.
- Assist Start-ups through their lifecycle with specific focus on important aspects like obtaining financing, feasibility testing, business structuring advisory, enhancement of marketing skills etc.
- Organize mentorship programs in collaboration with government organizations, incubation centres, educational institutions and private organizations who aspire to foster innovation.
- **Single Window Platform**-In order to commence operations, Start-ups require registration with relevant regulatory authorities.
- Where delays or lack of clarity in registration process may lead to delays in establishment and operations of Start-ups, thereby reducing the ability of the business to get bank loans, employ workers and generate incomes.
- **Mobile App**- An online portal which will serve as the single enabling platform for Start-ups for interacting with Government and regulatory institutions for all business needs and information exchange among various stakeholders like venture capitalists, incubators and so on

- **Patent protection**- A fast-track system for patent examination at lower costs is conceptualised by the government.
- The system will promote awareness and adoption of the Intellectual Property Rights (IPRs) by the start-up foundations.
- Start-ups with limited resources and manpower, can sustain in this highly competitive world only through continuous growth and development oriented innovations, for this it is equally crucial that they protect their IPRs.
- For effective implementation of the scheme, a panel of “facilitators” shall be empanelled by the Controller General of Patents, Designs and Trademarks (CGPDTM), who will regulate their conduct and functions. Facilitators will be responsible for providing general advisory on IPR’s and also provide technical assistance in filing the patents including the help in solving any disputes.
- **Fund of Funds** –means Government will not invest directly into Start-ups, but shall participate in the capital of SEBI registered Venture Funds.
- It will develop a fund with an initial corpus of Rs 2,500 crore and a total corpus of Rs 10,000 crore over four years, to support upcoming start-up enterprises.
- LIC will play a major role in developing this corpus.
- The Fund will be in the nature of Fund of Funds, which will be managed by a Board with private professionals drawn from industry bodies, academia, and successful Start-ups.
- **Exemption of Capital Gains Tax**- At present, investments by venture capital funds are exempt from Capital Gains Tax. The same policy is being implemented on primary-level investments in start-ups.
- Due to their high risk nature, Start-ups are not able to attract investment in their initial stage.
- It is therefore important that suitable incentives are provided to investors for investing in the Start-up ecosystem.
- With this objective, exemption shall be given to persons who have capital gains during the year, if they have invested such capital gains in the Fund of Funds recognized by the Government.

- In addition, existing capital gain tax exemption for investment in newly formed manufacturing MSMEs by individuals shall be extended to all Start-ups
- **Credit Guarantee Fund for Start-ups**– It aims to catalyse entrepreneurship through credit to innovators across all sections of society and will be rolled out through SIDBI.
- **Tax Exemptions** - In case of an investment of higher value than the market price, it will be exempt from paying tax.
- With a view to stimulate the development of Start-ups in India and provide them a competitive platform, it is imperative that the profits of Start-up initiatives are exempted from income-tax for a period of 3 years.
- **Incubator set up by PPP**- To ensure professional management of Government sponsored / funded incubators, Government will create a policy and framework for setting-up of incubators across the country in public private partnership.
- The incubator shall be managed and operated by the private sector.
- 35 new incubators in existing institutions.
- Funding support of 40% shall be provided by Central Government, 40% funding by the respective State Government and 20% funding by the private sector for establishment of new incubators.
- 35 new private sector incubators. A grant of 50% (subject to a maximum of INR 10 crore) shall be provided by Central Government for incubators established by private sector in existing institutions.
- **Rebate on filing of application**- Start-ups will be provided an 80% rebate in filing of patents vis-a-vis other companies. This will help them pare costs in the crucial formative years.
- **Atal Innovation Mission** –AIM to boost innovation and encourage talented youths. It has two core functions-
- First, entrepreneurship promotion through Self-Employment and Talent Utilization (SETU) wherein innovators would be supported and mentored to become successful entrepreneurs.
- Second, innovation promotion: to provide a platform where innovative ideas are generated.

- **Uchhattar Avishkar Yojana**- A joint MHRD-DST scheme which has earmarked INR 250 crore per annum towards fostering “very high quality” research amongst IIT students.
- This format has been devised to ensure that the research and funding gets utilized bearing in mind its relevance to the industry.
- Each project may amount to INR 5 crore and will initially apply to IITs only.
- NIDHI- a Grand Challenge program **National Initiative for Developing and Harnessing Innovations** shall be instituted through Innovation and Entrepreneurship Development Centres (IEDCs) to support and award INR 10 lakhs to 20 student innovations from IEDCs.
- **Start-up Fest**-As part of “Make in India” initiative, Government proposes to hold one fest at the national level annually to enable all the stakeholders of Start-up ecosystem to come together on one platform and hold one fest at the international level annually in an international city known for its Start-up ecosystem.
- **Faster exit** - If a start-up fails, the government will also assist the entrepreneurs to find suitable solutions for their problems.
- If they fail again, the government will provide an easy way out.
- The Insolvency and Bankruptcy code 2016 has adequate provisions for the fast track and / or voluntary closure of businesses.
- This process will respect the concept of limited liability.

Why Start Up India?

- Six out of eight **Indian Unicorns**(companies which are valued more than \$1million) had re-domiciled outside India.
- Ten of the top B2B start-ups had gone, 54 per cent of the top start-ups had gone in 2014 and 75 per cent in 2015.
- Due to **uncertainty** in our policies and taxation laws, companies prefer to register outside India.
- India’s forex regulations were not in tune with investor needs, mergers and acquisitions could become difficult and long-drawn-out and structuring was convoluted.
- India suffers from spectre of **jobless growth**. If India has to grow at double digit, and schemes like Make in India and Skill India have to be successful, Start-Up India provides the required driving force.

Analysis- Positives

- Potential to create **more jobs** at a time when the manufacturing sector is facing a slump which may last longer given the global economic prospects.
- Challenge now is to fund several large projects like roads, highways or railways which can be easily tackled with the new policy environment.
- The **easing of certification** and compliance procedure aided by technological interventions will definitely boost investor confidence and improve the credit-off take in the economy.
- The government's focus on **industry-academia partnership** is a very good initiative to upgrade research competence and enhance capacity building.
- The **tax exemption** for first three years and easier rules for public procurement make it a viable proposition for the start-ups to run their business, dominated by a few large corporates would also save the start-ups from harassment by tax officials.

Challenges

- The **fund of funds** proposed is criticised due to the fact that it is tax payer's money which has been proposed to be used in this fund.
- **Restrictive definition** of start-up hinders other kinds of start-ups from rising.
- Tax exemption is available only for first three years but very few start-ups if any, can be expected to start returning profit in just three years of existence.
- Certification by an inter-ministerial board can be a **cumbersome** task.

What more needs to be done?

- A more open and progressive regulation in Forex is needed.
- **More clarity** is required on tax laws, valuation of start-ups for investment by angels, policies on digitisation and digital business, market places including e-commerce and Intellectual rights issues.
- Taxes on alternative investment funds and venture capital need rationalisation.
- Boost in mobile banking.
- Relook on the restrictive start-up definition

Way forward

- The government's approach of targeting start-ups to power growth over the next decade is well judged.
- But the easing of rules and creation of a conducive policy environment should not be restricted just to start-ups. It should be extended to all businesses.
- India also needs start-ups throwing up globally path-breaking products. An enabling environment for this will comprise incubation centres which can plug into cutting-edge research happening in the country. If that is achieved, the Start-up India campaign would be meaningful
- The real test for Start-up India will be the re-domiciling of Indian start-ups .Partly to improve the ease of investing in start-ups, such investments have been exempted from long-term capital gains – which will have to be watched carefully for signs that it is being taken advantage of by, for example, real estate manipulators.

Rule's

1. Bio Medical Waste Management Rules, 2016

The Environment ministry released the new Bio-medical Waste (BMW) Management Rules on March 2016 which will bring in more comprehensive regime for bio waste management.

Aim:

- To improve the collection, segregation, processing, treatment and disposal of bio-medical wastes in an environmentally sustainable manner thereby reducing the bio- medical waste generation and its impact on the environment.
- These rules shall apply to hospitals, dispensaries, veterinary institutions, pathological laboratories, blood banks, research or educational institutions.

Bio medical waste:

- Biomedical waste comprises human & animal anatomical waste, treatment apparatus like needles, syringes and other materials used in health care facilities in the process diagnosis, treatment, research or immunization of human beings or animals or in the production or testing of biologicals.

Health-care waste management:

- The Government of India specifies that Hospital Waste Management is a part of hospital hygiene and maintenance activities.
- This involves management of range of activities such as collection, transportation, operation or treatment of processing systems and disposal of wastes.
- WHO states that 85% of the hospital waste is non-hazardous, 15% is infectious, infectious, toxic or radioactive (hazardous).
- Mixing of hazardous results in to contamination and makes the entire waste hazardous.
- Hence there is necessity to segregate and treat the health care wastes.
- Improper disposal increases risk of infection and encourages recycling of prohibited disposables develops resistant microorganisms which can infect patients, health workers and the general public.
- Health-care waste in some circumstances is incinerated and dioxins, furans and other toxic air pollutants may be produced as emissions.
- The hospitals are required to put in place the mechanisms for effective disposal either directly or through common biomedical waste treatment and disposal facilities.

Features of BMW Management Rules, 2016:

- **Expansion of ambit:** The ambit of the rules has been expanded to include vaccination camps, blood donation camps, surgical camps or any other healthcare activity.
- **Phasing out chlorinated materials:** Rules phase-out the use of chlorinated plastic bags, gloves and blood bags within 2 years.
- **Pre-treatment:** Pre-treatment of the laboratory waste, microbiological waste, blood samples and blood bags through disinfection orsterilisation on-site in the manner as prescribed by WHO or NACO.
- Thus, it will accelerate government's clean India Mission.
- **Immunising health care worker:** Provide training to all the health care workers and immunising them regularly.
- **Bar-code for proper control:** Establish a Bar-Code System for bags or containers containing bio-medical waste for disposal.
- **Reduction in categorisation:** Bio-medical waste has been classified in to 4 categories instead 10 to improve the segregation of waste at source.
- **Standards for incinerator:** The new rules prescribe more stringent standards for incinerator (burning of wastes) to reduce the emission of

pollutants in environment. Inclusion of emissions limits for toxic components like Dioxin and furans.

- **Common bio-medical waste treatment:** State government to provide land for setting up common bio-medical waste treatment and disposal facility.
- Operator of a common bio-medical waste treatment and disposal facility to ensure the timely collection of bio-medical waste from the Health Care Facilities (HCF) and assist the HCFs in conduct of training.

2. E-Waste (Management) Rules, 2016

- **Inclusion of Manufacturer** - Manufacturer, dealer, refurbisher and Producer Responsibility Organization (PRO) have been introduced as additional stakeholders along with producer, consumer who were already in the rules. This is to **address leakage of e-waste to informal sector** at all the stages of channelization.
- **Inclusion of components** - Bulk of e-waste comprises of components, consumables, spares and parts of Electrical and Electronic Equipment (EEE) which were not getting addressed in previous rules entailing to the scope of their channelization to informal sector. Therefore the applicability of the rules has been extended to components, consumables, spares and parts of EEE in addition to EEE as listed in Schedule I.
- **Inclusion of CFL** - Taking into account the lack of any regulation for management of CFL and other mercury containing lamp, CFL has been included in Schedule I which provide the list of EEE to which this rules is applicable. Compact Fluorescent Lamp (CFL) and other mercury containing lamp brought under the purview of rules.
- **Collection mechanism approach** - Collection mechanism based approach has been adopted to include collection centre, collection point, take back system etc for collection of e-waste by Producers under **Extended Producer Responsibility (EPR)**. Shift from collection centre to collection mechanism approach and removal of need of separate authorization will ensure effective collection simultaneously ensuring flexibility for Producers for implementation. This will check leakage of flow of e-waste to unauthorised players.
- **PRO-** Option has been given for setting up of Producer Responsibility Organization (PRO), e-waste exchange, e- retailer, Deposit Refund Scheme

as additional channel for implementation of EPR by Producers to ensure efficient channelization of e-waste.

- **Pan India EPR-** Single EPR Authorization for Pan India EPR Authorization by CPCB has been introduced replacing the state wise EPR authorization.
- **Collection and channelization of e-waste in Extended Producer Responsibility** - The phase wise Collection Target for e-waste, which can be either in number or Weight shall be 30% of the quantity of waste generation as indicated in EPR Plan during first two year of implementation of rules followed by 40% during third and fourth years, 50% during fifth and sixth years and 70% during seventh year onwards.
- **No separate authorization** for collection centre which shall be part of EPR now.
- **Deposit Refund Scheme** has been introduced as an additional economic instrument wherein the producer charges an additional amount as a deposit at the time of sale of the electrical and electronic equipment and returns it to the consumer along with interest when the end-of life electrical and electronic equipment is returned.
- The **e-waste exchange** as an option has been provided in the rules as an independent market instrument offering assistance or independent electronic systems offering services for sale and purchase of e-waste generated from end-of-life electrical and electronic equipment between agencies or organizations authorised under these rules.
- **Manufacturer Responsibility** - The manufacturer is also now responsible to collect e-waste generated during the manufacture of any electrical and electronic equipment and channelize it for recycling or disposal and seek authorization from SPCB.
- The dealer, if has been given the responsibility of collection on behalf of the producer, need to collect the e-waste by providing the consumer a box and channelize it to Producer
- **Bulk Consumer-** Bulk Consumer is being redefined by adding 'health care facilities which have turnover of more than one crore or have more than twenty employees'.
- **Responsibility of State Government** - The roles of the State Government has been also introduced in the Rules in order to ensure

safety, health and skill development of the workers involved in the dismantling and recycling operations.

- Department of Industry in State is to ensure earmarking or allocation of industrial space or shed for e-waste dismantling and recycling in the existing and upcoming industrial park, estate and industrial clusters.
- Department of Labour in the State need to ensure recognition and registration of workers involved in dismantling and recycling; assist formation of groups of such workers; undertake industrial skill development activities for the workers involved in dismantling and recycling; and undertake annual monitoring and to ensure safety & health of workers involved in dismantling and recycling.
- State Government to prepare integrated plan for effective implementation of these provisions, and to submit annual report to Ministry of Environment, Forest and Climate Change.
- **Reduction of Hazardous Substances (RoHS) during manufacturing Stage** - Provision on Reduction of Hazardous Substances (RoHS) and related Schedule II has been revised in line with existing EU regulatory framework which forms the basis of the provision.
- **The transportation of e-waste** shall be carried out as per the manifest system whereby the transporter shall be required to carry a document prepared by the sender, giving the details.
- **Liability provision**- Liability for damages caused to the environment or third party due to improper management of e-waste including provision for levying financial penalty for violation of provisions of the Rules has also been introduced.
- **Responsibility of ULBs** - Urban Local Bodies (Municipal Committee/Council/Corporation) has been assign the duty to collect and channelized the orphan products to authorized dismantler or recycler.

3. Government Notifies Real Estate Rules

Why in news?

The government on Monday notified the final rules to implement the Real Estate (Regulation and Development) Act, 2016 (RERA) that aims to bring transparency and set accountability in the sector and help in completion of stalled projects.

The rules will be applicable for five Union territories without legislature of Andaman & Nicobar Islands, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep and Chandigarh.

Real Estate (Regulation and Development) Act, 2016

- Developers will now be required to refund or pay compensation to the buyers for delay in projects with an interest rate of the State Bank of India's highest marginal cost of lending rate plus 2% within 45 days of it becoming due. This would come to around 11% to 12%.
- Bill mandates the developers to deposit 70 per cent of unused funds in a separate bank account within three months of applying for registration of a project with the Real Estate Regulatory Authority for ensuring completion of ongoing projects.
- The rules provide for regular auditing so as to verify the claims made by builders regarding used funds.
- Under the bill the developers have also been mandated to upload information about the project including number apartments or plots and status of the project with photographs floor-wise.
- Real Estate Regulatory Authorities have been mandated to publish on their websites the information relating to profile and track record of promoters, details of litigations and prospectus issued about the project.
- The Rules also provide for compounding of punishment with imprisonment for violation of the orders of Real Estate Appellate Tribunal.
- Discrimination in sale of properties on any grounds will also not be entertained under the new rules. Adjudicating Officers, Real Estate Authorities and Appellate Tribunals shall dispose of complaints within 60 days.
- The requirement of disclosing Income Tax returns proposed earlier has been withdrawn in keeping in view the confidentiality attached with them and as pointed out by legal experts and promoters.

Conclusion

The Real Estate Act is a promising piece of legislation which will increase transparency, due to the mandatory public disclosure of all project details, further increasing competition in the sector which is in the interest of the consumer.

The Act will also bring in regulatory oversight encouraging investments in the sector.

But the act does not make it mandatory to register projects which are smaller than 500 square meters or has less than 8 apartments a large number of small housing projects which also have great share in the market will remain excluded from the ambit of the Act.

Nevertheless, the creation of this Act is by itself an extremely encouraging step. While the Act is yet to be completely notified, it has already generated a positive response from the consumers.

The challenge will now be to ensure effective implementation of this ambitious legislation.

4. Insolvency and bankruptcy code

The Insolvency and Bankruptcy Code, 2016 is the bankruptcy law of India which seeks to **consolidate the existing framework by creating a single law for insolvency and bankruptcy.**

The Code seeks to repeal the Presidency Towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920. In addition, it seeks to amend 11 laws, which include the Companies Act, 2013, Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and Sick Industrial Companies (Special Provisions) Repeal Act, 2003, among others

Key features

Insolvency Resolution

The Code outlines separate insolvency resolution processes for individuals, companies and partnership firms. The process may be initiated by either the debtor or the creditors. A maximum time limit, for completion of the insolvency resolution process, has been set for corporates and individuals.

Insolvency regulator

The Code establishes the Insolvency and Bankruptcy Board of India, to oversee the insolvency proceedings in the country and regulate the entities registered under it. The Board will have 10 members, including representatives from the Ministries of Finance and Law, and the Reserve Bank of India.

Insolvency professionals

The insolvency process will be managed by licensed professionals. These professionals will also control the assets of the debtor during the insolvency process.

Bankruptcy and Insolvency Adjudicator

The Code proposes two separate tribunals to oversee the process of insolvency resolution, for individuals and companies: (i) **the National Company Law Tribunal for Companies and Limited Liability Partnership firms; and (ii) the Debt Recovery Tribunal for individuals and partnerships**

Highlights of the Code

- The Code creates time-bound processes for insolvency resolution of companies and individuals. These processes will be completed within 180 days. If insolvency cannot be resolved, the assets of the borrowers may be sold to repay creditors.
- The resolution processes will be conducted by licensed insolvency professionals (IPs). These IPs will be members of insolvency professional agencies (IPAs). IPAs will also furnish performance bonds equal to the assets of a company under insolvency resolution.
- Information utilities (IUs) will be established to collect, collate and disseminate financial information to facilitate insolvency resolution.
- The National Company Law Tribunal (NCLT) will adjudicate insolvency resolution for companies. The Debt Recovery Tribunal (DRT) will adjudicate insolvency resolution for individuals.
- The Insolvency and Bankruptcy Board of India will be set up to regulate functioning of IPs, IPAs and IUs.

Advantages

- On the parameter of resolving insolvency, India is ranked 136 among 189 countries. At present, it takes more than four years to resolve a case of bankruptcy in India, according to the World Bank. The code seeks to reduce this time to less than a year.
- The bankruptcy code has provisions to address cross-border insolvency through bilateral agreements with other countries.
- It also proposes shorter, aggressive time frames for every step in the insolvency process—right from filing a bankruptcy application to the time available for filing claims and appeals in the debt recovery tribunals, National Company Law Tribunals and courts.

Key Issues and Analysis

- Time-bound insolvency resolution will require establishment of several new entities. Also, given the pendency and disposal rate of DRTs, their current capacity may be inadequate to take up the additional role.

- IPAs, regulated by the Board, will be created for regulating the functioning of IPs. This approach of having regulated entities further regulate professionals may be contrary to the current practice of regulating licensed professionals. Further, requiring a high value of performance bond may deter the formation of IPAs.
- The Code provides an order of priority to distribute assets during liquidation. It is unclear why: (i) secured creditors will receive their entire outstanding amount, rather than up to their collateral value, (ii) unsecured creditors have priority over trade creditors, and (iii) government dues will be repaid after unsecured creditors.
- The Code provides for the creation of multiple IUs. However, it does not specify that full information about a company will be accessible through a single query from any IU. This may lead to financial information being scattered across these IUs.
- The Code creates an Insolvency and Bankruptcy Fund. However, it does not specify the manner in which the Fund will be used.

5. The Juvenile Justice (Care and Protection of Children) Act, 2015

What are the highlights of the act?

- The act came into force from January 2016. It replaces the Juvenile Justice (Care and Protection of Children) Act, 2000. It addresses children in conflict with law and children in need of care and protection.
- It permits juveniles between the ages of **16-18 years to be tried as adults for heinous offences.**
- Also, any 16-18 year old, who commits a lesser, i.e., serious offence may be tried as an adult only **if he is apprehended after the age of 21 years.**
- **Juvenile Justice Boards (JJB) and Child Welfare Committees (CWC)** will be constituted in each district.
- The JJB will conduct a preliminary inquiry to determine whether a juvenile offender is to be sent for rehabilitation or be tried as an adult.
- The CWC will determine institutional care for children in need of care and protection.
- **Eligibility of adoptive parents** and the procedure for adoption have been included in the Bill.

- Penalties for cruelty against a child, offering a narcotic substance to a child, and abduction or selling a child have been prescribed.

What is the implication of lowering the age?

- There are differing views on whether juveniles should be tried as adults. Some argue that the current law does not act as a deterrent for juveniles committing heinous crimes. Another view is that a reformatory approach will reduce likelihood of repeating offences.
- The provision of trying a juvenile committing a serious or heinous offence as an adult based on date of apprehension could violate the Article 14 (right to equality) and Article 21 (requiring that laws and procedures are fair and reasonable). The provision 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.
- The UN Convention on the Rights of the Child requires all signatory countries to treat every child under the age of 18 years as equal. The provision of trying a juvenile as an adult contravenes the Convention.
- Some penalties provided in the Bill are not in proportion to the gravity of the offence. For example, the penalty for selling a child is lower than that for offering intoxicating or psychotropic substances to a child.
- The Standing Committee examining the Bill observed that the Bill was based on misleading data regarding juvenile crimes and violated certain provisions of the Constitution.

What are the draft rules?

Union Minister of Women and Child Development released the draft model rules under the act. It includes

- **Detailed 'child-friendly' procedures** for the police, the juvenile justice board (JJB) and for children's courts. The latter two are required to adhere to the principle of the best interests of the child and her rehabilitation and reintegration into society.
- A demand that every state government should set up at least one **"place of safety"** in the state for the rehabilitation of such children.
- The provision of extensive services as well as regular monitoring.
- The draft policy states that, per the spirit of the act, keeping children in institutional care has to be a last-resort measure. Therefore, the act prescribes various measures for the **de-institutionalisation of**

children, including adoption, foster care and sponsorship. Detailed rules have been provided to facilitate these measures.

• **Inclusion of new offences –**

- The sale and procurement of children for any purpose including illegal adoption,
- Corporal punishment in child care institutions,
- Giving children intoxicating liquor, narcotic drugs, psychotropic substances or tobacco products
- Use of children by militant or adult groups;
- Offences against children with disabilities; and the abduction of children.

And for the effective implementation of these provisions, the draft rules provide for child-friendly procedures for reporting, recording and trial.

- They propose every police station should have **child-friendly infrastructure** and that a special children's room be designated in every court complex.
- **Mandatory registration** of all child-care institutions and punishment in case of noncompliance. It gives statutory status to the Central Adoption Resource Authority (CARA), enabling it to fulfil its function more effectively.
- **Simplified procedures** have been laid down for adoption by relatives. Child care institutions are required to develop linkages with Specialised Adoption Agencies so that the pool of adoptable children can be increased and these children can be brought into the adoption process.
- To enhance the reformatory part of the juvenile justice programme, a large number of forms have also been drafted to standardise and simplify prescribed procedures. These include separate individual care forms for children in need of care and protection and those in conflict with the law as well as forms for social background reports by the police, which have been added in order to assist the police in recording information about children.