

# IAS PARLIAMENT

A Shankar IAS Academy initiative

## MAINSTORMING 2017 GOVT ACTS & POLICIES II



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**MAINSTORMING - 2017**

**GOVERNMENT ACTS AND POLICIES**

**PART- II**



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## MAINSTORMING - 2017

### Acts and Policies II

#### Acts

##### 1. APRIL – 2017

##### 1.1 HIV and AIDS Prevention Bill, 2017

#### Why in news?

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

#### What are the provisions of the bill?

- **Prohibition of discrimination** - The Bill lists the various grounds on which discrimination against HIV positive persons and those living with them are prohibited.
- These include the denial, termination, discontinuation or unfair treatment with regard to: employment, educational establishments, health care services, residing or renting property, standing for public or private office, and provision of insurance.
- The requirement for HIV testing as a pre-requisite for obtaining employment or accessing health care or education is also prohibited.
- Every HIV infected or affected person **below the age of 18 years** has the right to reside in a shared household and enjoy the facilities of the household.
- **Informed consent** - The Bill requires that no HIV test, medical treatment, or research will be conducted on a person without his informed consent.
- No person shall be compelled to disclose his HIV status except with his informed consent, and if required by a court order.
- Establishments keeping records of information of HIV positive persons shall adopt data protection measures.
- **Role of the government** - The central and state governments shall take measures to -
  - prevent the spread of HIV or AIDS,
  - provide anti-retroviral therapy and infection management for persons with HIV or AIDS,
  - facilitate their access to welfare schemes especially for women and children,
  - formulate HIV or AIDS education communication programmes that are age appropriate, gender sensitive, and non stigmatizing, and
  - lay guidelines for the care and treatment of children with HIV or AIDS.
- **Ombudsman** - An ombudsman shall be appointed by each state government to inquire into complaints related to the violation of the Act.
- The Ombudsman shall submit a report to the state government every six months.

- **Guardianship** - A person between the **age of 12 to 18 years** who has sufficient maturity in understanding and managing the affairs of his HIV or AIDS affected family shall be competent to act as a guardian of another sibling below 18 years of age.
- The guardianship will be apply in matters relating to admission to educational establishments, operating bank accounts, managing property, care and treatment, amongst others.
- **Court proceedings** -Cases relating to HIV positive persons shall be disposed off by the court on a priority basis.
- In any legal proceeding, if an HIV infected or affected person is a party, the court may pass orders that the proceedings be conducted (a) by suppressing the identity of the person, (b) in camera, and (c) to restrain any person from publishing information that discloses the identity of the applicant.

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

### Why in news?

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

### How NCSEBC is different from NCBC?

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

### What will be the impact?

- This does not alter the basic rules of the game, namely the definition of the category “socially and educationally backward classes” and the existing limit of 50% on the total share of various reservation quotas.
- Now that Parliament would have to decide whether to grant OBC status, it would no longer be possible for opposition parties to stoke agitations without bearing responsibility for the consequences.
- The burden of handling the inevitable conflicts arising from a zero sum situation could also be shifted from the ruling party to Parliament.
- A Zero sum situation arises where the entry of new castes necessarily implies a decline in the share of castes already included.

### What are the shortcomings?

- Parliament will determine who is a BC for the ‘Central’ List, not NCBC.

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

### 1.3 NABARD Bill

#### Why in news?

National Bank for Agriculture and Rural Development (Amendment) 2017 Bill was introduced in Lok Sabha.

#### What are the provisions?

- NABARD Act, 1981 provides for the establishment of the NABARD.
- NABARD is responsible for providing and regulating facilities like credit for agricultural and industrial development in the rural areas.
- The Bill seeks to amend the 1981 Act.
- **Increase in capital of NABARD** - Under the 1981 Act, NABARD have a capital of Rs 100 crore, which can be further increased to Rs 5,000 crore by the central government in consultation RBI.
- The Bill allows the central government to increase this capital to Rs 30,000 crore.
- **Transfer of shares** - Under the 1981 Act, the central government and the RBI together must hold at least 51% of the share capital of NABARD.
- The Bill transfers all the share capital held by the RBI to the central government making Central government alone to hold at least 51% of the share capital of NABARD.
- **MSME** - Under the 1981 Act, NABARD was responsible for providing credit and other facilities to industries having an investment of upto Rs 20 lakh in machinery and plant. The Bill extends this to apply to enterprises with investment upto Rs.10 crore in the manufacturing sector and Rs.5 crore in the services sector.

- **Consistency with the Companies Act, 2013:** The Bill substitutes references to provisions of the Companies Act, 1956 under the NABARD Act, 1981, with references to the Companies Act, 2013.

## 1.4 Motor Vehicles Bill

### Why in news?

Motor Vehicles (Amendment) Bill, 2017 was passed by Lok Sabha.

### What are the features of the Bill?

- **Road Safety Board** - It provides for a National Road Safety Board with a Chairman, representatives of the state governments, and other members as specified by the central government.
- The Board will provide advice to central and state governments on all aspects of road safety and traffic management
- **Motor Vehicle Accident Fund** – It requires the central government to constitute a Motor Vehicle Accident Fund.
- The Fund will be utilised for
  1. treatment of persons injured in road accidents,
  2. compensation to representatives of a person who died/grievously hurt in a hit and run accident
- **Road design** - It provides that any contractor or consultant must follow design, construction and maintenance standards specified by the central government.
- Failure to comply will be punishable with a fine of up to Rs.1 lakh.
- It Bill defines taxi aggregators as digital intermediaries or market places which can be used by passengers to connect with a driver for transportation purposes.
- The Central Government will provide guidelines regarding aggregators.
- The Bill also provides for: (i) amending the existing categories of driver licensing, (ii) recall of vehicles in case of defects, (iii) protection of good samaritans from any civil or criminal action, and (iv) increase of penalties for several offences under the 1988 Act.

## 1.5 IIT (PPP) Bill

### Why in news?

The Indian Institutes of Information Technology (Public-Private Partnership) Bill, 2017 was in Lok Sabha.

### What are the features of the bill?

- The Bill declares 15 existing Indian Institutes of Information Technology established through public-private partnership as institutions of national importance.
- **Definition** - PPP is a partnership under a scheme of the centre which provides for establishment of institutes through collaboration between the centre, the state government and industry partners.
- Industry partners can be individuals, trusts, companies or societies.
- **Establishment of an institute** - The state government will identify at least one Industry Partner (IP) for collaboration and submit a proposal to the centre.

- The centre will examine the proposal based on
  1. the capital investment - borne by the centre, state and IPs in the ratio 50:35:15
  2. expertise and standing of the IPs
  3. the availability of adequate physical infrastructure. Land is to be provided by the state government free of cost.
- The centre may reject or accept the proposal with modifications.
- **Board of Governors** - They will be the principal policy making and executive body of the institute, with upto 15 members.
- Board includes –
  1. Chairperson, nominated on the recommendation of the centre;
  2. 1 nominee each of the central government and the concerned state government;
  3. Director of the institute;
  4. 1 nominee representing each of the industry partners; and
  5. 2 faculty members.
- **Senate** - It will be the principal academic body of each institute. They specify the criteria and procedure for admission to courses, create teaching and other academic posts and specify the broad academic content of programmes and courses of study.
- **Funds of the institute** - Each institute shall maintain a fund which will consist of funds from the government and other sources including fees, grants and donations.

## 1.6 The Treatment of Terminally Ill Patients Bill

### What is the issue?

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

### What is Euthanasia?

- It is the practice of **intentionally ending a life** in order to relieve pain and suffering.
- **Passive euthanasia** entails the withholding of common treatments, such as antibiotics, necessary for the continuance of life.

- **Active euthanasia** entails the use of lethal substances or forces, such as administering a lethal injection to kill, and it is controversial.

#### What does the draft bill say?

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

#### What did the SC say?

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

#### What does the new bill say?

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

### What are some the perceived flaws?

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

### 1.7 Committee to review FRBM Act

#### Why in news?

N.K. Singh Committee to review FRBM Act submitted its report.

#### What are the recommendations?

- It proposed a draft Debt Management and Fiscal Responsibility Bill, 2017 to replace FRBM Act 2003.
- **Debt to GDP ratio** - It suggested using debt as the primary target for fiscal policy.
- A debt to GDP ratio of 60% should be targeted with a 40% limit for the centre and 20% limit for the states.
- The targeted debt to GDP ratio should be achieved by 2023.

**Table 1: Deficit and debt targets (% of GDP)**

Year	Fiscal Deficit	Revenue Deficit	Debt
2017-18	3.0%	2.1%	47.3%
2018-19	3.0%	1.8%	45.5%
2019-20	3.0%	1.6%	43.7%
2020-21	2.8%	1.3%	42.0%
2021-22	2.6%	1.1%	40.3%
2022-23	2.5%	0.8%	38.7%

- **Debt** - The total outstanding liabilities of the government
- **Fiscal Deficit** - New borrowings made in the year
- **Revenue Deficit** - The part of the new borrowings that have been used to cover revenue expenses.
- **Fiscal Council** - Autonomous Fiscal Council with a Chairperson and two members to be appointed by the centre.
- They are to given a non-renewable four-year term to maintain their independence.
- They would be preparing multi-year fiscal forecasts, recommending changes to the fiscal strategy, improving quality of fiscal data, advising the government to take corrective actions for non-compliance.
- Deviations – According to 2003 Act, the government can deviate from the targets in case of a national calamity, national security or other exceptional circumstances.
- The Committee suggested that grounds in which the government can deviate from the targets should be clearly specified, and the government should not be used to dilute the act.
- It specified further cases for deviation such as –
  1. collapse of agriculture affecting output and incomes,
  2. structural reforms in the economy resulting in fiscal implications, or
  3. decline in real output growth of at least 3% below the average of the previous four quarters.
- These deviations cannot be more than 0.5% of GDP in a year.
- Borrowings - It restricts the government from borrowing from the RBI except on specific conditions.

### What are the shortcomings?

- India needs massive spending on health care and education, which makes revenue deficit unavoidable.
- Allowing for deviations only if the output is 3% lower than the four quarter average, may not leave flexibility to tackle economic downturns and growth booms.
- Having multiple targets like debt, fiscal deficit and revenue deficit with precise limits may make it difficult to achieve them all.

## 2. MAY - 2017

### 2.1 Telangana's Muslim Reservation Bill

#### Why in news?

The recent bill passed by the TRS government in Telangana that increased the quota for OBC (Pasmanda) Muslims and STs needs critical evaluation.

#### What is the background of the issue?

- Indian Muslims are differentiated into various caste groups.
- Historically, **the high caste Ashrafs**, once the ruling class, conceived Muslims as a “nation” and mobilised for self-determination through the Muslim League.

- The 1946 elections, dubbed as the consensus on Pakistan, in which the Muslim League won handsomely, was marked by a restricted electorate and nearly 85% of the population was excluded.
- Mostly, propertied and educated Muslims, the high caste ashraf, voted for Pakistan, the vote of subordinated Muslim caste groups wasn't even put to test.
- In fact, lower caste Muslim organisations like the **Momin Conference** were actively contesting the two-nation theory.
- It is due to the tragedy of the Partition that Muslims lost reservations in independent India that they enjoyed pre-1947.
- Experience of being a ruling class and the fact of being higher caste and adequate representation in public employment made ashrafs not to qualify as a socially backward class entitled to reservations under **articles 16 (4) and 15 (4) of the Constitution**.
- This position is affirmed by the Mandal (IndraSawney) judgment (1992) and also by various government reports including the Sachar Committee Report (2006).
- But ideologues of the **Pasmanda movement** — a social movement of backward, Dalit and Adivasi Muslims consistently challenged reservations for Muslims and preferred that similarly placed lower caste groups across religious communities be clubbed together.
- For instance, in Bihar, the OBC list is subdivided into Annexure I (Most Backward Classes) and Annexure II (Backward Classes) with most subordinated caste Muslims recognised in the MBC category with other Hindu castes.
- The Bihar formula works well, without triggering communal polarisation.

### Why is this bill a cause for concern?

- In Telangana, while OBC-A and OBC-B included Muslim scavengers (mehtars) and cotton carders (dudekula) with other Hindu backward castes, **the OBC-E exclusively recognised 14 Muslim caste groups**.
- What the recent bill has done is to increase the OBC-E quota from 4% to 12% and the ST quota from 6% to 10%, thereby taking **the quantum of reservations in the state to 62%**.
- The revised quota will be struck down since it exceeds the Supreme Court ceiling of 50% for reservations.
- **The bill can also not be placed within the Ninth Schedule** of the Constitution due to an unfavourable government at the Centre.
- Also, the OBC-E group includes around a 6% Muslim population segment.
- In that case the existing 4% quota for OBC-E was reasonable.
- Many experts fear that the bill will again feed into the hegemonic secular-communal or majority-minority duopolies.
- This situation could have been avoided had the Andhra Pradesh government followed the Bihar formula in 2004, when it first introduced the OBC-E category exclusively for Muslim caste groups.

## 2.2 Draft Labour Code

### Why in news?

The Draft Labour Code on Social Security and Welfare was published for public comments.

### What is the existing problem?

- India's Constitution and some of the ILO Conventions on social security provide a framework for **development of a social security system.**
- The central labour laws provide for social security such as maternity benefit, accident and disablement compensation, provident fund and gratuity.
- But they cover at best around 8% of the workforce in India.
- **Unorganised workers**, though huge in number, **have been ignored for long.**

### What are the positives of the bill?

- It **covers employees and non-employees** including domestic workers, farm workers, self-employed of all types, and so on.
- It seeks to address these grave shortcomings and attempts to conceive of a universal social security cover in a 'Single Code' by merging all existing schemes and laws.
- It reduces the payroll tax to 17.5% and subsidises the gratuity cost to 2% of total salary cost.

### What are the shortcomings?

- It defines "woman" as an "employee who is a woman in the context of maternity benefit under this code"; "monthly income" has not been defined.
- It inadvertently legalises "oral contract" by defining it as an attribute of informal worker.
- The canvas of coverage is vast and this gives rise to an **apprehension over the capacity of the State to enforce this Code.**
- The Code **does not define "social security"** nor provide the components of social security and the percentage benefits under each component.
- There are huge **concerns about the funds** for delivering varieties of benefits in the Code.
- The **coverage is huge** and the contributions apart from organised sector employers and employees are difficult to realise.
- The Code also envisages a huge administrative architecture, namely, the National Council, the Central Board, the State Board, an Executive Committee, a Standing Committee, and Central and State Advisory Committees.
- The Code lists numerous functions for each body (some over-lapping) and bureaucratisation will be its greatest hazard.
- It omits employers or does not give adequate representation to unions.
- The top-down approach of this Code is a serious limitation.

## 2.3 Child marriage amendment bill

### Why in news?

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

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

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

#### What is the amended bill is about?

- The Bill was drafted based on the recommendations of a core committee headed by Shivaraj V. Patil, former Supreme Court judge.
- This bill will give greater power to the police and increasing the penalty for child marriage.
- The amended Bill seeks to ensure zero tolerance towards child marriage, granting powers to policemen and enhancing penalties for those attending wedding ceremonies of minors.
- While the original legislation does not prescribe a minimum punishment for offenders, the amendment proposes rigorous imprisonment of one year.
- It also enables any police officer to take cognizance of the offence.
- This bill will helps to eradicate the menace of child marriage in the next few years.

#### 2.4 Real Estate Act

##### Why in news?

The much awaited Real Estate (Regulation & Development) Act is now in effect.

##### What does the act say?

- The Ministry of Housing and Urban Poverty Alleviation recently sections of the act which set the ball rolling for States to formulate, within six months, rules and regulations as statutorily mandated.
- Since **land is a State subject** under the Constitution, even after the Centre enacts the legislation, **State governments will have to ratify them.**
- States will have to set up the **Real Estate Regulatory Authority's (RERA) and the Real Estate Appellate Tribunals** and have only a maximum of a year from the coming into effect of the Act to do so.
- The Act's preamble details the legislative intention which is to primarily protect the interests of consumers and bring in efficiency and transparency in the sale/purchase of real estate.
- The Act also attempts to establish an **adjudicatory mechanism** for the speedy redress of disputes.
- RERA and the Appellate Tribunal are expected to decide on complaints within an ambitious period of 60 days.
- As one of the largest job creators, the real estate sector contributes almost 6% towards the GDP.
- Mindful of this, the Act seeks to assist developers by giving the regulator powers to make recommendations to State governments to create a single window clearance for approvals in a time-bound manner.
- Key provisions of the Act include a requirement for developers to now register projects with RERA prior to any advertisement and sale.
- Developers are also expected to have all sanction plans approved and regulatory clearances in place prior to commencement of sale.

- Subsequent changes have to be approved by a majority of buyers and the regulator.
- The **Act again ambitiously stipulates an electronic system**, maintained on the website of RERA, where developers are expected to update on a quarterly basis the status of their projects, and submit regular audits and architectural reports.
- If there is non-compliance, RERA has the power to order up to three years imprisonment of the promoters of a project.
- Importantly, it requires developers to maintain separate escrow accounts in relation to each project and **deposit 70% of the collections in such an account** to ensure that funds collected are utilised only for the specific project.
- The Act also requires real estate brokers and agents to register themselves with the regulator.

### What are the concerns?

- While consumer interests have been protected, **developers find provisions of the Act to be exceptionally burdensome** on a sector already ailing from a paucity of funds alike.
- In fact, the 22 sections still to be notified relate to functions/duties of promoters, rights/duties of allottees, recovery of interest on penalties and other offences.
- It appears that the law makers have consciously delayed the notification of these provisions till such time as regulators, developers and buyers familiarise themselves with the new legislation.
- Added with it were **multiple regulatory challenges**.
- The builder lobby has been demanding “industry” status for the real estate sector as it would help in the availability of bank loans.
- Real estate companies say that most delays are because of the failure of authorities to grant approvals/sanctions on time.
- While the Act addresses some of this, it does not deal with the concerns of developers regarding force majeure (acts of god outside their control) which result in a shortage of labour or issues on account of there not being a central repository of land titles/deeds.

### Are the concerns of developers legitimate?

- Some of these concerns are legitimate but the real estate sector has become a sort of untamed horse galloping in all directions.
- The cracks emerging in their books are largely of their own making.
- Once 100% foreign direct investment was permitted in real estate, international money flooded the market.
- Builders/developers overstretched themselves and diverted funds while some began to cross-invest in non-core activities.
- In the race to announce the next “mega project” one came across, in many instances, **real estate companies embarking on projects without even consolidating land**.
- Despite a model set of rules, only a few States have notified their rules.
- The onus is now on States to formulate rules and establish the regulatory authorities on time.

- There shouldn't be just paper compliance, by designating an existing authority to take additional charge as the real estate regulator, as that would affect the timeliness prescribed under the Act.
- Finally, the new legislation is a welcome enactment. It will go a long way in assisting upstanding developers.
- More importantly, it will ease the burden on innocent home buyers who put their life's savings into a real estate investment in the hope of having a roof over their head but often find their dreams come tumbling down.

### 3. JUNE – 2017

#### 3.1 Ratification of Child labour conventions

##### Why in news?

India ratified two key global conventions on combating child labour.

##### What are the conventions?

- India ratified Conventions 138 and Convention 182.
- Convention 138 calls for the minimum age for employment not to be less than the age of completion of compulsory schooling.
- It is 14 years of age in case of India.
- Convention 182 calls for elimination of the worst forms of child labour.

##### What is the significance?

- India has ratified six out of eight core ILO conventions.
- Four other conventions were related to abolition of forced labour, equal remuneration and no discrimination between men and women in employment and occupation.
- Countries which ratify any of the ILO conventions have to go through a periodical reporting system every four years.
- So the government has to prove they are making progress.
- Conventions 138 and 182 of the United Nations body leave it to the member-states to determine what constitutes acceptable or unacceptable work for children at different ages.
- It will also ensure compliance of the government's 2016 legislation

##### What are the provisions of the act?

- The Central government had Child labour (Prohibition and Prevention) amendment Act, 2016.
- It banned the employment of child labour below 14 years of age in all occupations and processes.
- It linked the age of employment for children to the age of compulsory education under Right to Education Act (RTE), 2009.
- It prohibited employment of adolescents (14-18 years of age) in hazardous occupations.
- But children were allowed to "help" families in running their domestic enterprises after school hours.

- Given the sensitivities involved in monitoring activities within traditional households, effective enforcement will pose a challenge.
- Several industries were also declassified from being hazardous occupations.
- Rescue of vulnerable children is still uncertain.

### 3.2 Financial Resolution and Deposit Insurance Bill

#### Why in news?

The Union Cabinet has approved the Financial Resolution and Deposit Insurance (FRDI) Bill, 2017 to be introduced in the Parliament.

#### How it is different from IBC?

- This Bill is similar to the Insolvency and Bankruptcy Code, 2016.
- Both of these are about issues that can arise when companies go bankrupt or insolvent.
- The difference is that the Bill deals only with the companies that are in the financial sector entities such as banks and insurance companies..
- The insolvency code Act deals with companies in all other sectors.

#### What does the bill seek?

- It seeks to protect customers of financial service providers in times of financial distress.
- It aims to inculcate discipline among financial service providers by limiting the use of public money to bail out distressed entities.
- It would help in maintaining financial stability in the economy by ensuring adequate preventive measures.
- It also aims to strengthen and streamline the current framework of deposit insurance for the benefit of retail depositors.
- A resolution corporation will be setup to strengthen the stability and resilience of the financial sector.
- Finally it seeks to decrease the time and costs involved in resolving distressed financial entities.

### 3.3 SC's caution against use of 'Goondas Act'

#### Why in news?

Supreme Court had recently struck down the detention of a man who had allegedly sold spurious chilli seeds in Telangana.

#### What are preventive detention laws?

- Preventive detention laws confer extraordinary discretionary powers on the executive to detain persons without bail.
- The period may extend to one year and courts tend to review them if the prescribed procedure was strictly followed.
- Several States have a law popularly known as the 'Goondas Act' aimed at preventing the dangerous activities of specified kinds of offenders.

### What was the case about?

- The Telangana government invoked the stringent provisions of the Goondas Act against a district distributor of Genetic Seeds.
- The authorities had said the trader was harming poor, small farmers and jeopardising their safety and financial well-being.
- It stated that recourse to normal legal procedure would be time-consuming and would not be an effective deterrent against the sale of spurious seeds.
- The detention of Thirumurugan Gandhi, leader of the 'May 17 Movement', a pro-Tamil Eelam group, under the Goondas Act is also a brazen violation of their fundamental rights and another instance of abuse of the law.

### What the Court's stand?

- The court termed this as a gross abuse of statutory powers.
- It has set aside the Telangana authorities' decision, calling it 'unsustainable'.
- It also said that the order was affecting the life and liberty of citizens.
- It also questioned the use of words such as "goonda" and "prejudicial to the maintenance of public order" as a "rhetorical incantation" solely to justify an arbitrary detention order.
- The Goondas Act is meant to be invoked against habitual offenders, but in practice it is often used for a various reasons.

## 4. JULY – 2017

### 4.1 Child marriage amendment bill

#### Why in news?

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

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

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

#### What is the amended bill about?

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

### 4.2 Interstate water disputes bill

#### Why in news?

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

### What is interstate river water disputes act?

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

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

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

### What are the shortcoming of the bill?

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

## 4.3 Admiralty Act, 2017

### Why in news?

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

### What is the aim of the bill?

- Admiralty laws are those laws that deal with cases of accidents in navigable waters or involve contracts related to commerce on such waters.

- The Bill repeals laws such as the Admiralty Court Act, 1861, the Colonial Courts of Admiralty Act, 1890.
- It seeks to consolidate the laws relating to admiralty jurisdiction, legal proceedings in connection with vessels, their arrest, detention, sale and other related matters
- The bill was earlier passed by the Lok Sabha in March, 2017.

#### What are the features of the bill?

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

#### 4.4 Amendments to Ancient Monuments Act

##### Why in news?

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

##### What are prohibited zones?

- Ancient Monuments and Archaeological Sites and Remains Rules of 1959 for the first time noted a prohibited zone around protected sites.
- In 2010, the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act was passed.

- This legislation brought the prohibited and regulated zones around monuments within the ambit of the Act itself.
- A designated prohibited area means that at least within a 100-m radius of the monument, no new construction is allowed.

### What are the existing problems?

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

### What is the new amendment?

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

### What is the importance of prohibited zones?

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

## 4.5 Issues with MPT Act, 1971

### Why in news?

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

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

- The couple found out about the anomaly in the foetus in the 24th week of pregnancy.
- The Medical Termination of Pregnancy Act, 1971, allows abortion **only up to 20 weeks** by medical practitioners for the following conditions –
  1. the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury of physical or mental health, or
  2. there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.
- So they approached the Supreme Court.

- The Supreme Court rejected the plea of the woman.
- Now the woman gave birth to a baby boy with the **Arnold Chiari Type II syndrome**.
- It leads to a malformed brain and spinal cord.
- The baby is now battling for life in a neonatal intensive care unit.

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

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

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

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

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

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

### **4.6 Empowering Transgenders**

#### **What is the issue?**

Kochi metro recently hired transgenders to their workforce as a measure to empower them.

#### **What are the recent steps taken?**

- **Judiciary** - Supreme Court recognised transgender people as a third gender in 2014.
- It mandated the government to take steps for the welfare of transgender persons in the NALSA vs. Union of India case
- Bihar state government introduced third gender category in school exams to give effect to the SC judgment.

- **Legislative - The Transgender Persons (Protection of Rights) Bill, 2016** has been introduced in the parliament.
- It attempts to bring the community into the mainstream.

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

- The bill creates a statutory obligation on public and private sectors to provide them with employment and recognises their right to “self-perceived gender identity”.
- A transgender person must obtain a certificate of identity as proof of recognition of identity as a transgender person and to invoke rights under the Bill.
- It also provides for a grievance redressal mechanism in establishments.
- It has provisions to establish a National Council for Transgenders.
- It makes the government responsible for preparing welfare schemes and programmes which are “transgender sensitive, non-stigmatising and non-discriminatory”.
- It holds that it is a crime to push transgender persons into begging or bonded or forced labour.
- The Bill recognises the rights of transgender persons to live with their families without exclusion and use the facilities of those households in a non-discriminatory manner.

#### **What are the defects of the bill?**

- The Bill does not address the issue of Section 377 of the Indian Penal Code.
- The definition of a ‘transgender person’ is left vague.
- The provision to obtain a certificate from District Screening Committee for the identity as transgender persons goes against the principle of to ‘self-perceived’ gender identity.
- It does not separately clarify any of the terms used in defining the transgenders, like for example, “trans-men” and “trans-women”.

### **4.7 Addressing Manual Scavenging**

#### **Why in news?**

The Madras High Court has directed the Central and the State governments to ensure the implementation of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.

#### **What was the case?**

- A petition was submitted claiming that around 30 persons engaged for manual scavenging in Tamil Nadu lost their lives.
- The petitioner wanted the court to pass directions to the Union and the State government to identify families involved in manual scavenging and rehabilitate them.
- Following this, the court noted that manual scavenging is a contravention of human rights and the right to live with dignity enshrined by the Constitution.
- It also directed the Central and the State governments to ensure the implementation of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.

### What are the challenges in implementing?

- Continuous presence of insanitary latrines.
- Absence of a full census of both the latrines and the people engaged in clearing such waste.
- Reduction of funds for the self-employment scheme by Centre, discouraging people to move away from scavenging.
- Prevalence of social prejudice like regarding the inclusion of a sanitary toilet as physical pollution of the house and entrenched belief in the caste system

### What should be done?

- The judiciary should fix responsibility on State governments.
- It should order an accurate survey of the practice especially in those States that claim to have no insanitary latrines or manual scavenging.
- Raising the confidence level among those engaged in manual cleaning is vital.
- Empowerment and breaking caste barriers through education and economic uplift is the key.
- Compensation sanctioned for the families of those who died should be paid immediately.

### What are the highlights of the Manual Scavenging Act, 2013?

- The Bill prohibits the employment of manual scavengers, the manual cleaning of sewers and septic tanks without protective equipment, and the construction of insanitary latrines.
- It seeks to rehabilitate manual scavengers and provide for their alternative employment.
- Each local authority, cantonment board and railway authority is responsible for surveying insanitary latrines within its jurisdiction.
- They shall also construct a number of sanitary community latrines.
- Each occupier of insanitary latrines shall be responsible for converting or demolishing the latrine at his own cost.
- If he fails to do so, the local authority shall convert the latrine and recover the cost from him.
- The District Magistrate and the local authority shall be the implementing authorities.
- Offences under the Bill shall be cognizable and non-bailable.

## 4.8 Maharashtra Social Boycott Bill

### Why in news?

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

### What is social boycott?

- A social boycott is an act of voluntary and intentional abstention from dealing with a person, organization, as an expression of protest, usually for social, political reasons.
- In India, it is frequent that particular Individual or group of Individual are boycotted by other set of majority in the name of caste, religion, rituals, and traditions.

- It was categorically stated that social boycott for reasons such as religious rituals, inter-caste marriage, lifestyle, dress or vocation are happening.

#### What are the highlights of the bill?

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

#### 4.9 Consumer Protection Amendment Bill

##### What is the issue?

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

##### What have necessitated an amendment?

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

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

- The new Bill includes the establishment of an **executive agency**, the Central Consumer Protection Authority (CCPA), which will protect and enforce the rights of consumers.
- The new bill includes stringent provisions to tackle misleading **advertisements**, as well as to fix liability on endorsers and celebrities.
- The new Bill contains an enabling provision for consumers to **file complaints electronically**.

- The Bill has a provision for **product liability** and provides enough powers to the regulatory authority to recall products and cancel licences if a consumer complaint affects more than one individual.
- The powers to take action for damage caused by a product will act as a deterrent for manufacturers since the liability quotient has increased.
- Provisions aimed at simplifying the **consumer dispute resolution** process include,
  1. enhancing the pecuniary jurisdiction of the Consumer Grievance Redress Agencies.
  2. powers to State and District Commissions to review their orders.
  3. setting up a 'circuit bench' in order to facilitate quicker disposal of complaints.
- The Bill also proposes to set up **Consumer Mediation Cells** which will be attached to the redressal commissions at the district, State and national levels. This will further help reduce the backlog of cases and lessen the strain on redressal forums.

#### 4.10 Human DNA profiling

##### Why in news?

In a case regarding DNA collection, the government has told SC that it was in the process of finalising a fresh version of the draft Human DNA profiling bill.

##### What are the highlights of the bill?

- The Bill was aimed mainly to assist law enforcement agencies in tackling crime but provides for DNA testing techniques to be used in other situations as well, like establishing parentage or blood relations between individuals.
- DNA profiling (also called DNA fingerprinting, DNA testing, or DNA typing) is a forensic technique used to identify individuals by characteristics of their DNA.
- The bill proposes to form a National DNA Data Bank and a DNA Profiling Board, and use the data for various specified purposes.
- It will collect data from offenders, suspects, missing persons, unidentified dead bodies and volunteers.
- The proposed DNA Profiling Board will consist of molecular biology, human genetics, population biology, bioethics, social sciences, law and criminal justice experts.
- The Board will define standards and controls for DNA profiling.
- It will also certify labs and handle access of the data by law enforcement agencies.
- There will be similar bodies at state levels.
- The data will be restricted and will be available only to the accused or the suspect.
- A person facing imprisonment or death sentence can send a request for DNA profiling of related evidence to the court that convicted him.

#### 4.11 Reforming the Protection of children act

##### What is the issue?

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

### What is POSCO?

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

### What is the case?

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

### What was the court's rationale?

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

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

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

### 4.12 Drawbacks in Domestic Violence Verdict

#### What is the issue?

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

#### What are the concerns with the legislation?

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

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

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

### What are the drawbacks?

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

### 4.13 Bill on statutory powers for IIMs

#### Why in news?

The Indian Institutes of Management (IIMs) Bill, 2017 was passed by Lok Sabha.

#### What is the need for the bill?

- The Indian Institutes of Management (IIMs) are autonomous institutes of management, education and research and are presently registered as societies under the Indian Societies Registration Act.

- It is governed by a Board of Governors.
- The government has been looking to grant more autonomy to these institutes and more powers have been granted to their Governing Boards.
- It also decided to lay down a clear rule on the line of succession in case the post of director falls vacant.

### What are the provisions of the bill?

- It seeks to declare existing IIMs as institutes of national importance.
- **Powers of the IIM** - The IIMs will have powers regarding regulation admission, management and fees.
- Currently, they can offer diplomas and not degrees. The bill enables IIMs to grant degrees, diplomas and other academic distinctions.
- It also allows IIMs to conduct examinations and establish and maintain necessary infrastructure.
- **Authorities** - The **Board of Governors** shall be the principal executive body of each institute, responsible for policy decisions, approving the annual budget estimates, etc.
- It grants powers to the Board of Governors to get an inquiry conducted by a person not below the rank of a High Court judge against a director in case it is felt that an institute has not performed as per the provisions of the proposed Act.
- The Board may even remove the director of the institute after proper enquiry.
- The Boards of Governors of IIMs would evaluate the performance of the institutes after every few years.
- A coordination forum with an eminent person as the chairperson will take up matters common to all the IIMs.
- The **Academic Council** shall be the principal academic body of each institute and will specify the academic content of programmes and the criteria and process for admission to courses.
- **Powers of the central government** - Any regulations made by the Board are subject to prior approval of the central government in matters relating to
  1. Admission and specifying fees,
  2. Determining posts and emoluments of faculty and staff,
  3. Establishment and maintenance of buildings,
  4. Conferring degrees and
  5. Determining powers of the Academic Council, Chief Administrative Officer and the Board, etc.
- **Funding** - The IIMs will discharge their functions on the basis of grants received from the central government.
- The new IIMs proposed by the central government will be situated in Vishakhapatnam, Bodh Gaya, Sirmaur, Nagpur, Sambalpur and Amritsar.
- Each institute will offer post graduate programme courses.

## 5. AUGUST

### 5.1 Minimum Wage Code Bill

#### Why in news?

The Union Cabinet has approved the new wage code bill.

#### What is the bill about?

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

#### What are the concerns with the code?

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

### 5.2 Banking regulation amendment bill

#### Why in news?

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

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

- Steel, Infrastructure, Power and Textiles are the sectors with the most NPAs.

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

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

- The Bill, earlier passed by the Lok Sabha, will replace the Banking Regulation (Amendment) Ordinance, 2017.
- It empowers the Reserve Bank of India to issue instructions to the banks to act against major defaulters.
- In the case of wilful defaulters their names will be made public.
- Only in cases of normal commercial transactions were the names not made public
- Powers are being offered to the RBI as, it also performed other functions like public debt management earlier.
- It allows the RBI to initiate insolvency resolution process on specific stressed assets.
- The RBI will also be empowered to issue directives for resolution and appoint authorities or committees to advise the banking companies on stressed asset resolution.
- The recovery proceedings will be carried out under the Insolvency and Bankruptcy Code, 2016 that provides for a time-bound process to resolve defaults.

#### **What actions are taken by RBI?**

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

### **5.3 Major Port Authorities Bill**

#### **Why in news?**

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

## What are the major recommendations?

- **Port governance structure** - The Bill provides for the creation of a Board of Major Port Authority for each major port.
- Under the 1963 Act, all major ports are managed by the respective Board of Trustees.
- It noted that the Bill provides the government more flexibility and power to allow private players in the port sector.
- It recommended that the Ministry should address stakeholder concerns regarding the possible full **privatisation** of ports in future.
- It advised the Ministry to ensure that the administrative, managerial and financial control of the port remains with the Board of Major Port Authority.
- **Board Composition** - Other than the Chairperson and deputy Chairperson, the committee recommended having others members in the Board of Port Authority.
- These include members from the respective state governments, the Defence Ministry, the Customs Department, few independent members who are experts in port activities.
- It emphasized the need for a better representation of employees of the port on the Board.
- It thus recommended appointing a minimum of two labour representatives, one of whom should be a serving employee.
- **Voting Powers** - The bill provides that all questions will be decided by a majority of votes of the members present and voting.
- The Chairperson or the person presiding will have a second or casting vote in case of equal votes.
- The Committee recommended deleting this provision because it would impact the functional and strategic independence of the Board.
- **Land Contracts** - The 1963 Act prescribes certain maximum value and a maximum period of 30 years for contracts dealing with port land.
- It deals with acquisition, sale or lease of immovable property.
- Any contract extending that value needs prior approval of the government.
- However, the recent Bill allows the Board to use its property, assets and funds as deemed fit for the development of the major port.
- Also under this, the contracts on sale or lease of immovable property can be for a maximum term of 40 years exceeding which would require a prior approval of the government.
- The Committee noted that this provision does not provide clarity on the extent of land ownership of the Port Authorities.
- It thus recommended retaining the provisions of the earlier Act itself.
- **Raising loans** - The Bill provides for the ports to raise loans even from institutions outside India that is compliant with all the laws.
- However, the Committee has noted that raising loans from private or foreign financial entities may give such entities control over the port management.

- It recommended that the provision should be amended to ensure that the administrative control of the Port Authority always remains with the government.
- It also recommended that any loans obtained from entities other than the government must be approved by the central government and RBI, and be notified.
- **Others** - The committee recommended that while handing over port related activities to private operators, national security and safety should not be compromised.
- This is particularly in reference with ports handling defence cargo.
- It recommended that no new ports must be established in the 100 km vicinity of an existing major port, without the authority's permission.
- This is because new ports that come up in the vicinity of major ports affect their business and profitability.

#### 5.4 Amendments to Environment Protection Act

##### Why in news?

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

##### What are the present provisions?

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

##### What are the proposed changes?

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

##### What are the shortfalls?

- The proposed changes lack understanding of why repeated attempts over the past failed to bring a change in pollution levels in the river. This includes the recent Namami Gange project's output.

- The river is a community asset and polluting it has disastrous health effects. This cannot be overlooked because a polluting industrial unit is happy to pay Rs.1 Crore.
- Undermining judicial review could give scope for official-polluter nexus, instead of reducing pollution.
- Change can start with more efficient execution of the existing rules than amending them or bringing new ones.

## 5.5 Whistle blowers Protection Act

### Why in news?

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

### Who is a Whistleblower?

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

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

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

### What are the proposed controversial amendments?

- The amendment Bill seeks to remove immunity provided to whistle-blowers from prosecution under the draconian Official Secrets Act (OSA) for disclosures made under the WBP law.
- It proposes that, complaints by whistle-blowers containing information which would prejudicially affect the sovereignty, integrity, security or economic interests of the state shall not be inquired into.
- It also states that, certain categories of information cannot form part of the disclosure made by a whistleblower, unless the information has been obtained under the RTI Act.
- This includes what relates to commercial confidence, trade secrets which would harm the competitive position of a third party and information held in a fiduciary capacity.

### What are the consequences?

- It will shun even genuine whistleblowers with a strong case for the fear of repercussions.
- Exposition of corruption made in domains like nuclear facilities or the Army will not be subject to inquiry (under the clause relating to national security).
- The move to restrict government employees from using certain information will drastically reduce their potential advantage of being an insider with privy information to expose corruption.

- The bill has been hastily passed in the Lok Sabha.
- To reconsider amendments that would fundamentally dilute the law, and provide an opportunity for public consultation, it is imperative that the Bill be referred to a select committee of the Upper House.

## POLICIES

### 1.1 National Healthcare Policy 2017

#### Why in news?

The Union cabinet recently approved the National Health Policy, 2017.

#### What are the features?

- The policy includes progressive steps towards universal and affordable access to healthcare services for the underprivileged.
- It does this by making provisions for comprehensive primary care via the conversion of 150,000 sub in Indian villages to “**Health and Wellness Centres**”.
- Every family is to be provided with a health card that will link it to the primary care facility and make it eligible to receive a defined package of services anywhere in the country.
- To increase “accountability and governance”, the government will aim at increasing both horizontal and vertical accountability by providing a greater role for local body participation and encouraging community monitoring.

#### What are the problems?

- **Absenteeism** -In a study conducted by the World Bank and Harvard University in 2003, it was found that in 1,500 primary healthcare centres across India, 40% of healthcare workers in government health clinics were absent from work.
- In another study conducted in the sub-centres of 135 villages of Udaipur from 2005-07, suggested that monitoring, coupled with punitive pay incentive, reduced the absence of nurses from 60% to 30% in healthcare centres.
- This proves that healthcare workers are responsive to properly administered incentives, and that comprehensive monitoring does make a difference.
- **Distrust** -For the underprivileged, a visit to a primary healthcare centre may mean the loss of a day’s wage, especially given a bad service delivery system.
- A lack of understanding of the benefits of vaccination, and, to some extent, distrust in government healthcare services, exacerbate the problem.
- A research study helped provide immunization services through mobile camps on fixed days in one intervention. In the other intervention, it incentivized parents with a gift of 1kg of lentils on immunization days and a thali on the completion of the whole schedule.
- It showed that providing poor families with non-financial incentives in addition to reliable services and education about immunization was more effective.
- **Lack of evidence** -While the healthcare policy relies heavily on technical research in pharmaceuticals and equipment, when it comes to service delivery, evidence-based policy has been absent in India.

- Policymakers need to know what works and what doesn't. There is evidence to show that projects fail largely as they are not evidence-based.
- The government will also require a robust mechanism to implement and monitor the mammoth mission.

## 1.2 Assistance to Fishermen - National Policy on Marine Fisheries

### What is the issue?

The Centre plans to provide the fishermen community, mainly small-scale and artisanal fishers, and financial assistance and introduce norms to improve labour conditions in the sector.

### Why the centre announces such a measure?

- Fisheries sector contributed Rs.96,824crore to the GDP (at current prices) during 2013-14, which is 0.92% of the total GDP and 5.15% of GDP from agriculture, forestry and fishing at current prices.
- It noted that fishermen are having difficulties in availing institutional credit to buy fishing implements and crafts
- The risky nature of returns has led to many fishermen falling into the debt trap of private financiers and middlemen.
- Therefore, the Centre, with the help of NABARD, will provide financial assistance to fishermen with liberal terms and conditions.
- In addition, the Government will introduce new schemes to skill traditional fishermen.
- However, the government will ensure that the Indian fishing fleet does not engage in '**Illegal, Unreported and Unregulated**' (IUU) fishing, according to the National Policy on Marine Fisheries, 2017.

### National Policy on Marine Fisheries

- The draft on the National Policy on Marine Fisheries **lays emphasis on bringing in Blue Revolution** by sustainable utilisation of the fisheries wealth from the marine and other aquatic resources.
- The Blue Revolution reinforces the **Blue Growth Initiative (BGI)** as amplified at the Rio+20 Conclave held at Rio de Janeiro in 2012.
- The government's focus is on maximising fleet-size, mainstreaming biodiversity conservation in production processes, species-specific and area-specific management plans and spatial and temporal conservation measures.
- The policy is aimed at improving the livelihood of fishers by encouraging integrated approach on fisheries management, blending of traditional knowledge and science with business principles.

## 1.3 Language Policy

### What are the issues?

- The Parliamentary Committee on Official Language recommended to the Central Board of Secondary Education (CBSE) to make Hindi compulsory in all CBSE-affiliated schools till Class X.
- A case is gaining momentum in favour of revisiting Part XVII of the Constitution which envisages the replacement of English language with Hindi at the national level and with other languages in the Eight Schedule in their respective states.

- Andhra Pradesh announced that a department will coin new Telugu words to replace English words in vogue now.
- Kerala declared that from May, Malayalam would be the sole language of the administration.
- If left unresolved, the language muddle is bound to affect both the efficacy of our educational system and the integrity of our judiciary.

### **What is the constitutional mandate?**

- Article 348(1) stipulates the use of English in the Supreme Court and High Courts as well as for drafting Bills, Acts and Orders.
- Article 348(2) read with Section (7) of the Official Languages Act 1963 provides for Hindi or other official languages to be used in High Courts “in addition to English”.
- Bihar, Madhya Pradesh, Rajasthan and Uttar Pradesh have already been granted the right to use Hindi in their High Courts.
- The same right has been withheld from Tamil Nadu and Gujarat and Chhattisgarh which sought permission to use Tamil, Gujarati and Hindi respectively.
- With regard to the functioning of High Courts, all Indian official languages enjoy equal status.
- Therefore, demands for permission to use these languages in High Courts are bound to increase.

### **What is the Court’s stand?**

- A Constitution Bench in Karnataka Vs Recognised-Unaided Schools held that -
- Even for linguistic minorities, it is the fundamental right of parents to determine what their mother tongue is;
- A child, and on his behalf his parent or guardian, has the right to choose the medium of instruction at the primary school stage under Article 19(1)(a), and;
- The imposition of mother tongue at the primary school stage (by the State) affects the fundamental rights under Articles 19(1)(a) and (g) of the Constitution.
- So CBSE’s move will face the danger of being struck down as unconstitutional.

### **What should be done?**

- It is time for India to relook its language policy under Part XVII which became obsolete more than 50 years ago.
- The nation must adopt mother tongue plus English, with Hindi accorded a pride of place for ceremonial occasions at national and international levels.

## **1.4 Importance of Communications Policy**

### **Why in news?**

The RBI Governor announced that members of the Monetary Policy Committee (MPC) had refused an invitation from the Ministry of Finance for a private briefing.

### What is the issue?

- What did the ministry want to share with the MPC which was not already available in the public domain? The answer probably is the official analysis of the data.
- The fact of the matter is that there is **no longer a robust communications policy**.
- Also, there is **inadequate economic research** emanating from official and institutional sources.
- While the RBI's detailed reports have become a pale version of what they used to be, the Finance Ministry's Economic Survey has become an overly theoretical tract.

### What is happening in recent times?

- In recent years, with the world passing through a very uncertain economic period, communications policies and official publications have undergone a significant change.
- Traditionally, the Survey has been a rich source of information for economic analysts and officials. However, in the past few years, the Survey has been lacking in direction.
- The last Survey, released in January 2017, was more like a research-based conference volume with tentative propositions and hypotheses, but **very little by way of a review of the Indian economy**.
- Also, the Annual Report of the RBI has been shrinking and silent on many pertinent issues of the economy such as non-performing assets.
- The other statutory document, **Report on Trends and Progress of Banking** (RTPB) has become invisible, having been submerged into the Financial Stability Report (FSR).
- Last year, the RTPB was finally separated from the FSR, but was a shadow of its traditional size and quality.
- A similar story holds true for other research-based publications from the research wing of the RBI.
- **Centre for Advanced Financial Research and Learning** (CAFRAL), was set up in 2011 to serve as a knowledge hub of the country.
- However, research output from CAFRAL has not gained prominence and respectability in both quality and quantity despite hosting a large number of foreign-based economists.

### Why communications policy is important?

- The communication policy is expected to **cover four broad categories of issues** viz., interpretation of economic conditions including recent developments, content of policy decisions, strategy and outlook for the future.
- Globally, in recent years, the communications policy of governments has assumed significance, as **it promotes confidence in the policy regime**.
- The Indian economy is passing through a great transition.
- Ever since the new government took over, there has been a paradigm shift in economic policy.
- In such a transition, **communications policy through publications** seems worsening, when it should have been more transparent.
- The uncertain and tense economic environment is not conducive to growth.

## 1.5 New Committee on National Educational policy

### Why in news?

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

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

- The government is not satisfied with the reports of TSR Subramanian Committee.
- It is looking for a fresh and comprehensive report.
- The new committee will be headed by ISRO chief K Kasturirangan.

### What were the recommendations of Subramaniam committee?

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

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

### Why was the government against it?

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

## 1.6 National Energy Policy

### What is the issue?

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

## What are the major contradictions?

- The policy foresees India's power demand going up four-fold by 2040.
- It also estimates coal-fired power capacity to grow to 330-441 GW by 2040.
- This projected scenario is in **direct conflict with the declared twin goals** of sustainability and security.
- It also comes at a time when solar and wind tariffs appear to be reaching historic new lows.
- This dropping tariff and the advancements of renewable energy prove that renewables are the logical choice to power India's energy transformation.
- **Coal Export** - NITI Aayog proposes that our coal industry will emerge as an exporter of coal.
- It is against our international commitments to tackling climate change.
- **Tackling Air Pollution** - The draft proposes that the geographic concentration of power plant will be strategically placed to not damage air quality in human habitations.
- This is illogical as the placement of polluting power stations is indifferent to the pollution it will cause to the environment.
- **Public Health** - It briefly touches upon of consideration of public health of semi-urban and rural regions of India.
- It doesn't address problems of city dwellers.
- **Nuclear Energy** - The draft calls nuclear energy as the **only green energy source to be relied upon** for baseload power requirements.
- Age of India's nuclear reactors, high price paid for nuclear energy, safety issues were not covered.

## 1.7 Open Acreage Licensing Policy

### Why in news?

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

### What is Open Acreage Licensing?

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

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

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

### What are the concerns with OALP?

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

### 1.8 Verdict on NEET

#### Why in news?

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

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

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

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

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

### What was the court's rationale?

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

### What is the way ahead?

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

## 1.9 Government Litigation a key to reduce pending cases

### What is the issue?

- Over 3 crore cases are pending in various courts in India—over 60,000 in the Supreme Court, 40 lakh in various high courts and 2.7 crore in various subordinate courts.
- The government's latest figures shows that 46% of cases are those involving the government, various PSUs and other bodies funded by the government.
- At the end of FY16, disputed cases in tax department alone involved a sum of over 6.8 lakh crore.
- Resolving atleast the government litigation will have a dramatic reduction of clutter in various courts.
- It would also free up considerable amount of resources, both within the government and the private sector, in terms of manpower as well as money.

### Was the National Litigation Policy effective?

- The National Litigation Policy sought to transform government into an 'efficient and responsible litigant' with a nodal officer in each department whose job would be to curb frivolous litigation with the help of various regional empowered committees.
- Despite this, the average pendency in Indian courts remains 15 years instead of three, which was stated in the Policy.

### How can the number of cases be reduced?

- If changes are to be brought in, it will have to be through an aggressive policy on mediation or arbitration and a policy rule that says the rulings will be challenged only under extremely trying circumstances.
- It is equally important to apply rules that take into account the likelihood of victory and the time consumed for each case.
- Groups can be set up in various ministries whose job is to examine all pending litigation and rank these on the basis of value and 'winnability', and then take a call on whether they should be carried on.
- Cases can be bunched on the basis of points of law like the SC and can be dealt accordingly.
- Similar parameters have to be put in for current cases since there is little point in fixing the stock if the flow is not dealt with.

### 1.10 Legalizing Gambling

#### Why in news?

India's top law panel is examining whether betting on sports and gambling in casinos and other places can be legalised.

#### What will be the impact?

- In a report on the subject in 2013, the FICCI has suggested that there is an informal Rs 300,000 annual betting industry in India despite the ban.
- In 2016, the Supreme Court had asked the law commission to study the possibility of betting on cricket.
- Gambling on the internet is hard to stop and a **law will mean regulating the sector** and allowing casinos and betting on cricket and other sports.
- Legalising casinos and other such gambling places could **regulate an informal industry** worth Rs 300,000 crore and also bring in thousands of crores in revenue, it is estimated.
- Regulation and taxation can yield large amounts of revenue for the exchequer and check crime.
- Several countries allow betting on sports. But, there are moral and ethical dimensions involved.
- It has to be seen if betting can encourage match fixing.
- So, **the regulatory frame work will have to be pretty strict.**
- India will also have to rely a lot on technology if it wants to legalise sports betting.

### 1.11 Ban on harmful drugs

#### What is the issue?

Even after giving its assurance on banning 37 harmful drugs, government is yet to take a considerable action on it.

### **What is a fixed dose combination drug?**

- Combination drugs or fixed dose combination (FDC) drugs are those with two or more active pharmaceutical ingredients combined in a fixed dose to form a single drug.
- Commonly used medications such as paracetamol, aceclofenac and nimesulide are FDC.
- Government following the recommendation of the Kokate committee banned 344 fixed dose combination medicines many of which are household names.
- Under Section 26A of the Drugs Act, a drug can be banned only after the licence holder of that drug is given a three-month notice.
- But government said, these drugs were banned due to their ability to cause “antibiotic resistance”.
- Later the Delhi high court struck down the ban stating that the government had acted in a “haphazard manner”.
- Still many such FDC’s exist in India.

### **What is antibiotic resistance?**

- Antibiotic resistance is the ability of a microorganism, which is causing the disease, to withstand the effects of an antibiotic medicine.
- Indiscriminate prescription of antibiotics and laxity of enforcement laws are the main causes of antimicrobial resistance.

### **What is the function of DCGI?**

- Drug Controller General of India under the gamut of Central Drugs Standard Control Organization is responsible for approval of licenses of specified categories of drugs such as blood and blood products, IV fluids, vaccines and sera in India.
- DCGI lay down the standard and quality of manufacturing, selling, import and distribution of drugs in India.
- It acts as an appellate authority in case of any dispute regarding the quality of drugs.
- It prepares and maintains national reference standard.
- It brings about the uniformity in the enforcement of the Drugs and Cosmetics Act.
- It trains Drug Analysts deputed by State Drug Control Laboratories and other Institutions.

### **What is the significance of banning?**

- Department of Health Research (DHR) requested the Drug Controller General of India (DCGI) and senior health ministry officials last year with a request to ban 37 drugs that termed to be “very harmful”.
- But these drugs continue to be freely available in the market.
- The DCGI suggested to the health ministry that a committee should be formed to look into this matter.
- But no such panel had been formed till date.
- The 37 fixed-dose combinations (FDCs) listed by DHR are commonly used antibiotics.
- e.g Cefpodoxime & Clavulanate - used to treat diseases like pharyngitis, urinary tract infection, gonorrhoea and pneumonia.

- This drug is sold by more than 70 companies in India under different brand names.
- Due to these drugs there is a risk of increase in antibiotic resistance in India.

### 1.12 Import Regulations

#### Why in news?

In a bid to streamline the process of clearance for imported foods, the Food Safety and Standards Authority of India (FSSAI) has notified import regulations.

#### What are the key highlights of the regulations?

- The regulations include provisions for risk-based framework under which the food regulator may adopt a **risk-based inspection process and** review risks associated with articles of food imports from time to time.
- The comprehensive regulations would facilitate ease of trade and ease of doing business while ensuring that the health of the consumers is not compromised.
- It has laid down procedure for clearance of imported food products into India.
- It has various provisions related to licensing regime for food importers.
- It also includes provisions for food import clearance for specific purposes, storage, inspection and sampling of imported food articles and prohibition and restriction on food imports, besides labelling provisions for import of food products.
- The regulation specifies the scheme for risk-based sampling imported food articles, which facilitates ease of doing business while not compromising the health of the public.

#### What is the way ahead?

- The food authority should also introduce a pre-arrival document review for regulating imports.
- The regulator should also enter into memoranda of understanding with relevant agencies in exporting countries for accelerated clearance of food imports from the countries to facilitate ease of doing business.
- It should issue food alert notifications, including time-bound prohibition on articles of food or prohibiting source or recalls, based on the risk associated with the articles of food.

### 1.13 New Metro Rail Policy

#### Why in news?

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

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

- It focuses on compact urban development, cost reduction and multi-modal integration
- It opens a big window for private investments across a range of metro operations.
- PPP component is made mandatory for availing central assistance for new metro projects.
- Innovative forms of financing of metro projects have been made compulsory.

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

#### How does the policy envisage private sector participation?

It calls for any of the following models –

- **Cost plus fee contract** - Private operator is paid a monthly/annual payment for Operation and maintenance of system.
- This can have a fixed and variable component depending on the quality of service.
- **Gross Cost Contract** - Private operator is paid a fixed sum for the duration of the contract.
- Operator to bear the O&M risk while the owner bears the revenue risk.
- **Net Cost Contract** - Operator collects the complete revenue generated for the services provided.
- If revenue generation is below the O&M cost, the owner may agree to compensate.

#### 1.14 New Industrial Policy

##### Why in news?

The government is working on a new industrial policy to make the manufacturing prospects in the country better.

##### What is the policy about?

- It subsumes the National Manufacturing Policy.
- It primarily aims at making **India a manufacturing hub**.
- The Department of Industrial Policy and Promotion, the nodal body for the new Policy, has floated a **discussion paper** inviting feedbacks.
- Focus groups, with members from government departments, industry associations, academia, and think tanks have been set up to look into the challenges faced by the industry.
- **Six thematic focusgroups** include manufacturing and MSME, technology and innovation, ease of doing business, infrastructure, investment, trade and fiscal policy, skills and employability.

- Besides, a **Task Force on Artificial Intelligence** for India's economic transformation has also been constituted to provide inputs for the policy.

### What is the need?

- Since the last Industrial Policy announced in 1991, India has witnessed transformation into one of the fastest growing economies in the world.
- It is now required to deploy a different set of ideas and strategies to build a globally competitive Indian industry.
- As the discussion paper highlights, there are certain constraints to industrial growth that have to be addressed.
- This include -
  1. inadequate infrastructure
  2. restrictive labour laws
  3. complicated business environment
  4. slow technology adoption
  5. low productivity
  6. inadequate expenditure on R&D and innovation
  7. challenges for trade including the Indian MSME sector facing tough competition from cheap imports from China and FTA countries

### What does the policy aim for?

It proposes to incorporate a range of measures for the following -

- Facilitating the use of smart technologies such as Internet Of Things (IOT), artificial intelligence (AI) and robotics for advanced manufacturing.
- Increasing the number of global Indian firms helping attract inward FDI and supporting outward FDI to assert Indian presence in world markets.
- Addressing the problem of low job creation in the formal sector.
- Enhancing industrial competitiveness
- Developing alternatives to banks and improving access to capital for MSME through options like the peer to peer lending and crowd funding.
- Providing a credit rating mechanism for MSME.
- Addressing the problems with duty structure and also balancing it against obligations under multilateral or bilateral trade agreements.
- Studying the impact of automation on jobs and employment.
- Ensuring minimal/zero waste from industrial activities and targeting certain sectors to radically cut emissions.
- Reviewing the FDI policy to ensure that it facilitates greater technology transfer, leverages strategic linkages and innovation.

### 1.15 Draft Pharma Policy

#### Why in news?

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

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

- The new pharmaceutical policy proposes to balance the need for price control over medicines.
- Union government will gain a greater role in deciding prices of medicines and medical devices.
- Pricing authority will regulate only medicines that are specified by the government in the National List of Essential Medicines.
- The price caps being imposed on patented medicines are reduced.
- Policy allows pharmaceutical manufacturers to sell their medicines under only under generic names and not under differently-priced brands.
- Manufacturing of drugs under WHO standards is made mandatory.
- The policy seeks to bring down the unreasonable trade margins offered by various stockists to hospitals.

#### What are the issues with the policy?

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

#### What measures can be taken?

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

### 1.16 New Telecom Policy-2018

#### Why in news?

The communications ministry is going to set up a working groups to deliberate on the new telecom policy which is expected in 2018.

#### What to expect from NTP-2018?

- The advent of high-speed data services and enhanced user expectation of getting real time on-demand bandwidth to run live applications has set the tone for new policy.
- It will be application driven as compared to connectivity driven at present.
- The focus will be on the end users and newer opportunities for expanding the availability of telecom services.
- Impetus for the development of next-generation technologies like 5G, Internet of Things (IoT) and Artificial Intelligence (AI) and seamless connectivity is envisioned.
- It has been proposed to align the new policy with various e-governance initiatives like Digital India, Internet for all, smart cities and intelligent transportation systems, along with enhancing web based education & financial services.
- Facilitating more investments in the sector is being considered as a priority.
- The establishment of one pan-Indian telecom circle by integrating the various present regional circles is being considered.
- Skills development and security architecture in the sector are being considered.
- The ministry has promised “widest possible public consultation” involving the industry, local stakeholders & government regulators for finalising the contours of the NTP.

#### **What is the current scenario in the industry?**

- India is the second largest telecom market in the world with over one billion mobile subscribers.
- FDI equity inflow in the sector has been drastically increasing year on.
- However, the sector is now reeling under a staggering Rs 4.6 lakh crore of debt.
- The pressure on revenue and profitability due to intense competition in the market, and disruptive voice and data offerings of the newcomer ‘Reliance Jio’ has hit the industry hard.
- An inter-ministerial group has been constituted to suggest ways to ease the industry’s financial stress.
- The Telecom department is also considering setting up telecom Computer Emergency Response Team-CERT to enhance cyber & telecom security.
- Internet’s contribution to India’s GDP at about 5.6% in 2015-16 and is estimated to grow to nearly 16% of the country’s GDP by 2020.

#### **1.17 National Hearse Policy**

##### **What is the issue?**

There is a need for a “National Hearse Policy” with a minimum corpus for transportation and cremation of dead bodies.

##### **What has brought this up?**

- Although the Gorakhpur tragedy was greatly painful in itself, details emerge that the dead bodies of most of the children were manually carried back home without any government assistance.
- Ever since a man carried the body of his wife on his shoulders from the hospital in Kalahandi district of Odisha, there has been a surge of similar reporting from across the country.

- In 2017 alone, more than a dozen such incidents have been reported so far which besides being visually repugnant, also carries a risk of transmission of diseases and physical damage to the body.
- It isn't surprising that people who were forced to take this walk of shame were predominantly from the most backward regions of the country and marginalised sections of society - both in terms of economic status and social strata.
- This pathetic condition of the downtrodden puts the onus on the state for ensuring the transportation & burial/cremation of the dead from government and private hospitals with dignity.

### What kind of a policy is needed?

- In the West, transporting the dead from hospitals follows laid down "Standard Operational Protocols" - (SOPs) which are missing the Indian context.
- It can be easily seen that illiteracy, poor health administration and social norms are barriers.
- But this shouldn't deter the government from at least developing and promoting SOPs for those who die within the confines of a government set up.
- Most importantly, such SOPs when designed should not become a mere legal protocol that is devoid of the necessary sense of compassion and care for the situation of the downtrodden.
- It needs to be constituted with a 'Fund Corpus' to facilitate free of cost services for those who can't afford to comply.

### What are the challenges?

- **Vehicle Shortage** - Besides the absence of SOPs for the transportation of the dead, there appears to be an acute shortage of hearse vehicles in India.
- It is common knowledge that most dead bodies in India are transported using private vehicles like vans and ambulances.
- We are probably the only nation in the world which transports our dead in ambulances for ambulances are not meant for the dead but for the dying.
- There is no national data available on the demand and number of hearse vehicles in the country even when schemes like the MP Local Area Development Scheme (MPLADS) allow the purchase of such vehicles for district hospitals.
- **Long Distance Transport** - Another aspect of transportation of dead bodies is the practice of long distance transport which needs the body to be embalmed (preserved) for the journey.
- Such transportation is essential in a big country like ours where higher referral medical centres are few and scattered.
- This also highlights the urgent need to formulate guidelines for transportation of embalmed bodies by air, rail and road which is lacking.

## 1.18 New Data protection policy

### What is the issue?

- Union Government has constituted a committee under Justice (Retd) BN Srikrishna to suggest and draft a new data protection Bill.
- Well-functioning data privacy legislation will provide an efficient redress mechanism for data subjects.

### What are the concerns with India's data protection?

- India's existing data privacy framework dates only to the year 2009.
- It was introduced to address growing concern relating to 'data protection' and 'data privacy'.
- In 2011, Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules were issued.
- These regulate the collection, disclosure, transfer and storage of sensitive personal data and information.
- The above-mentioned legislative framework does not extend to government agencies.
- It stops short of imposing a duty upon the data collector to mandatorily report any data compromises to data subjects.

### What is the need for new data protection law?

- Data is the lifeblood of today's digital economy and is driving new businesses.
- With the proliferation of smartphones, every tap creates a digital footprint.
- Personal information is now being challenged as companies are also exploiting real-time data generated from daily activities.
- Government's drive to digitise India on the back of initiatives such as JAM (Jan Dhan-Aadhaar-Mobile) and the increased focus on digital payments is fuelled by data.

### How the new data protection law need to be?

- **Inclusive**-An effective data privacy regime should set the rules for all stakeholders, create a balance between protecting the right of privacy of data subjects.
- It is imperative to bring government agencies within the ambit of the new framework.
- Drafting a legislation that is applicable to both the private sector and the Government is highly recommended.
- **Versatile**-New data privacy framework must aim to harmonise principles such as limitation on collection and purpose, disclosure, openness, security.
- **Dynamic**-The approach must be based on standards relevant to enable the law to keep pace with rapid changes in technology.
- **Regulated**-Regulating the collection of data may not be enough, its use by data collectors and data processors could also be regulated.

### 1.19 Dynamic Pricing Policy – The concerns

#### Why is the issue?

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

#### What is dynamic pricing policy?

- This means that the prices of these transport fuels are changed daily by the OMCs based on the movement of international crude oil prices.
- Prior to this, the revision in fuel prices happened on a fortnightly basis.

- It is part of an effort to remove the burden off subsidies on the exchequer & the Oil Marketing Companies (OMCs).
- It smoothed out price fluctuations & thereby benefited OMCs and the consumers.

### **Why are the retailers worried?**

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

### **1.20 Strategic Partnership Model**

#### **Why in news?**

Ministry of Defence (MoD) announced Strategic Partnership model for the Indian private sector.

#### **What is SP Model?**

- It identifies a few private companies as Strategic Partners (SPs).
- They would initially tie up with a few shortlisted foreign Original Equipment Manufacturers (OEMs) to manufacture big-ticket military platforms.
- They would assume the role of system integrators and also lay a strong defence industrial foundation by making long-term investment on production and R&D infrastructure.
- This would help in creating a wider vendor base, nurturing a pool of skilled workforce, and making a commitment to indigenisation and technology absorption.
- The ultimate aim of the model is to enhance India's self-reliance index in defence procurement.

#### **How are the companies selected?**

- The selection of SPs and their foreign OEM partners would be based on a competitive process to be undertaken simultaneously.

- The main criteria for the selection of OEMs would be the compatibility of their products with the Services Staff Qualitative Requirements (SQRs), and their commitment to provide technology and other assistance to enable their Indian partners to produce in India with maximum indigenisation.
- Indian companies would be identified based on certain technical, financial and infrastructure-related parameters.
- The contract would be awarded to the company that has quoted the lowest price.
- Any applicant company interested in participating in the selection process for strategic partners must be owned and controlled by resident Indians i.e a minimum 51% of its equity must be owned by resident Indians.

#### What are the benefits?

- It enables Indian companies to participate in some big ticket contracts which were hitherto reserved for the Defence PSUs.
- It will bridge the long-standing trust gap between the Indian private sector and MoD.
- The development of competitiveness and expertise to compete to win future contracts was lacking in the case of DPSUs.
- Future orders would not be awarded automatically after the initial contract, so the SPs will constantly improve upon their competitiveness.

#### What are the concerns?

- There is a lack of institutional capacity and ability to guide the new process to its logical conclusion.
- In the past, the 'Make' and 'Buy and Make (Indian)' procedures, have failed to yield the desired results because of this.
- Public sector entities enjoy privileged position in defence manufacturing. MoD has deviated from its own promise of fair play in award of contracts and handed over large orders to DPSUs and OFs on nomination.
- It would be futile to expect SPs to make major investments if the government does not provide a level-playing field to the private sector.

### 1.21 Issues with Coal Allocation decisions

#### What is the issue?

- The Union Cabinet took two important decisions aimed at streamlining coal allocation to the power sector and making it more transparent and objective.
- The decisions might address some near-term issues, but they are unlikely to cater to the future needs of the sector.

#### What was the first decision?

- The first decision was to approve the signing of **fuel supply agreements (FSAs)** by power plants holding letters of assurance (LoAs) and likely to be commissioned by March 31, 2022.

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

### What is Shakti?

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

### What are the issues with Shakti?

- Shakti appears to be in **conflict with some pro-competition initiatives** of the coal and power ministries.
- As a result of Shakti, the burden of base load capacity addition might continue to fall on distribution companies (discoms) and this in turn would leave small consumers to effectively bear the cost.
- On the coal side, the ministry wants to **introduce commercial mining for coal**, and has been making statements to this effect.
- Since most of the upcoming capacity will be owned by the public sector, which will continue to get coal at notified prices from Coal India Ltd (CIL) under Shakti, CIL will be shielded from competition. This is at odds with the intention of introducing commercial mining.
- Shakti's architecture is also **skewed against private power generators**, as they have to bid for coal at a premium above the CIL-notified price unless they are willing to take a chance on other routes like buying coal from a commercial miner (if that exists).
- Given this distortion, discoms would find it easier to continue signing "cost-plus" PPAs with public sector generators.

- Since **small consumers will continue to rely on discoms** for their power supply, the inefficiencies of the public sector value chain shielded from competition will be passed on to their electricity tariffs.
- Effectively, under Shakti, the coal and power generation sectors will be fragmented along public and private sector lines, with **no competition between the two**.
- Also, most coal linkages will continue to be allocated to public sector generators based on “recommendations from the MoP”.
- This would go **‘against the grain’ of making the allocations transparent**, unless the entire process is fully transparent.
- Thus, it appears, rather than powering the future of the electricity sector, Shakti is likely to hinder competition and discourage private sector participation, thus failing to meet the future needs of the power sector.

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