

# Monthly Policy Review

March 2015

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## Highlights of this Issue

### [Lok Sabha adjourned, and Rajya Sabha prorogued \(p. 2\)](#)

In the first half of the budget session, eight Bills were passed by Parliament. Five of these Bills replaced Ordinances. Lok Sabha broke for recess, and Rajya Sabha was prorogued.

### [Bills relating to five out of six Ordinances passed by Parliament \(p. 3, 5, 8, 9\)](#)

The Bills relate to foreign investment in insurance companies, auction of mining leases, auction of coal blocks cancelled by the Supreme Court, and including e-rickshaws under the Motor Vehicles Act, 1988, among others.

### [Cabinet decides to re-promulgate the Land Acquisition Ordinance \(p. 2\)](#)

The Bill to replace the existing Ordinance was passed by Lok Sabha with nine amendments. It is pending in Rajya Sabha. The Cabinet has decided to re-promulgate the Ordinance incorporating changes made in Lok Sabha.

### [Supreme Court declares Section 66A of Information Technology Act unconstitutional \(p. 6\)](#)

The Court held that section 66A violated the fundamental right to speech and expression guaranteed in the Constitution. It stated that the offences specified in the section were vague and undefined.

### [Bill related to undisclosed foreign income introduced in Lok Sabha \(p. 3\)](#)

The Bill imposes a 30 per cent tax rate on undisclosed foreign income or assets, and provides for punishments for non disclosure of foreign income and failure to furnish tax returns.

### [Supreme Court sets aside govt order granting Jats OBC status in certain states \(p. 11\)](#)

It stated that backwardness is determined not solely on the basis of caste but also social, economic and political factors. It held that the National Commission for Backward Classes recommended not including Jats under OBCs.

### [Law Commission submits report on Electoral Reforms \(p. 10\)](#)

The Commission addressed several issues related to electoral reforms including: (i) election finance, (ii) anti defection law, (iii) paid news, (iv) compulsory voting, and (v) independent candidates.

### [Comments invited on Draft Labour Code on Wages Bill, 2015 \(p. 7\)](#)

The Draft Bill proposes to repeal four existing laws and replacing them with a comprehensive law to regulate minimum wages, payment of wages and bonuses, equal remuneration irrespective of gender.

### [Comments invited on the Public Procurement Bill, 2012 \(p. 3\)](#)

The Bill was introduced in 2012 to regulate procurement processes in the central government and ensure transparency. The Bill lapsed with the dissolution of the 15<sup>th</sup> Lok Sabha. Comments are invited by April 10, 2015.

### [Standing Committee submits report on the Anti-Hijacking Bill, 2014 \(p. 8\)](#)

The Standing Committee recommended making the acts of preparing for hijacking and making hoax calls regarding hijacking, as punishable. It also suggested that the Bill should provide compensation to victims of hijacking.

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April 1, 2015

## Parliament

*Prachee Mishra (prachee@prsindia.org)*

The budget session of Parliament began on February 23, 2015 and had 19 sittings until March 20, 2015, when it broke for recess. Lok Sabha is scheduled to meet again on April 20, 2015. Rajya Sabha was prorogued on March 28, 2015. This implies that the budget session for Rajya Sabha has concluded, and it will meet for the next session when summoned by the President. This also implies that the President may promulgate an Ordinance as one of the Houses is not in session.

A total of eight Bills were passed by Parliament in the first half of the session. Of these, six were introduced this session, and include the Insurance Laws (Amendment) Bill, 2015, the Coal Mines (Special Provisions) Bill, 2015, the Mines and Minerals (Development and Regulation) Amendment Bill, 2015, the Citizenship (Amendment) Bill, and the Andhra Pradesh Reorganisation (Amendment) Bill, 2015. The first five in this list replaced Ordinances.

The Warehousing Corporations (Amendment) Bill, 2015 and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Bill, 2015 were introduced in and passed by Lok Sabha and are now pending in Rajya Sabha. Four Bills including the Citizenship (Amendment) Bill, 2014 and the Insurance Laws (Amendment) Bill, 2008 were withdrawn.

The Undisclosed Foreign Income and Assets (Imposition of Tax) Bill, 2015, which was announced by the Finance Minister in the Budget Speech, was introduced in Lok Sabha.

For more information, see [here](#).

## Land acquisition

*Joyita Ghose (joyita@prsindia.org)*

### **Cabinet to re-promulgate Land Acquisition Ordinance with 9 changes; Bill pending in Rajya Sabha**

According to news reports, Cabinet has decided to re-promulgate the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 which will lapse on April 5,

2015.<sup>1</sup> The Bill to replace the current Ordinance which was promulgated in December 2014, was passed by Lok Sabha on March 10, 2015.<sup>2, 3</sup> It is currently pending in Rajya Sabha.

The Bill seeks to exempt five categories of projects such as defence, rural infrastructure, affordable housing, infrastructure, and industrial corridors from certain provisions of the Act. These are: (i) obtaining the consent of 80% land owners for private projects, and 70% land owners for public-private partnerships, (ii) conducting a Social Impact Assessment (SIA), and (iii) limits on acquiring multi-cropped land.

The Bill also seeks to bring the compensation, rehabilitation and resettlement (R&R) provisions of 13 other laws (such as the National Highways Act, 1956 and the Railways Act, 1989), in line with the Act.

While passing the Bill, Lok Sabha made nine amendments. These are likely to be incorporated in the re-promulgated Ordinance. Major amendments include:

- The Act did not allow for the acquisition of land for private hospitals and private educational institutions. The Bill sought to allow for the acquisition of land for these two purposes. However, this provision of the Bill has been removed by Lok Sabha.
- In the Bill, industrial corridors are exempt from the consent and SIA provisions of the Act. The definition of industrial corridors was clarified to mean corridors set up by the government or government undertakings, and where land is acquired up to 1 km on either side of the corridor.
- With regard to projects which may be exempt from the SIA or limits of acquisition of multi-cropped land, Lok Sabha added that before issuing a notification to exempt a project from these provisions, the government must ensure that the amount of land being acquired is keeping with the minimum land required.
- Lok Sabha added that as a part of the Rehabilitation and Resettlement award, employment must be given to one member of an ‘affected family of a farm labourer’ in addition to the current requirement of employment for one member of an affected family.

For more details on the Bill, please see the Bill page, [here](#) and the PRS Blog, [here](#).

## Finance

### The Insurance Laws (Amendment) Bill, 2015 passed by Parliament

Tanvi Deshpande ([tanvi@prsindia.org](mailto:tanvi@prsindia.org))

The Insurance Laws (Amendment) Bill, 2015 was passed by Parliament on March 12, 2015.<sup>4</sup> The Bill replaced an Ordinance which was promulgated in December 2014. Key features of the Bill include:

- **Foreign Shareholding:** The composite foreign equity investment cap of 49% in Indian companies should be inclusive of all forms of foreign direct investment and foreign portfolio investments.
- **Capital Requirements:** In addition to defining a health insurance business, the Bill states that a company engaged exclusively in the health insurance business cannot register unless it has a paid up equity capital of Rs 100 crore. Additionally, a provision has been introduced stating that a foreign re-insurer has to have net owned funds of at least Rs 5,000 crore in order to register the insurance company.
- **Appeals:** According to the Act, the government can appoint an officer to ensure compliance of capital requirements by a general or life insurer. This decision can be appealed in the High Court. The Bill states that the appointment can be made by IRDA, and that this decision can be appealed in the Securities Appellate Tribunal.

For a PRS Summary, please see [here](#).

### Comments invited on the Public Procurement Bill, 2012

Tanvi Deshpande ([tanvi@prsindia.org](mailto:tanvi@prsindia.org))

The Ministry of Finance has invited comments on the Public Procurement Bill, 2012.<sup>5</sup> The Bill was introduced in Lok Sabha on May 14, 2012 with a view to regulate and ensure transparency in the process of procurement by the government. It lapsed with the dissolution of the 15<sup>th</sup> Lok Sabha.

The Finance Minister had mentioned in the Budget Speech on February 28, 2015 that the Parliament needed to take a view on whether a procurement law was needed, and the shape that it would take. Accordingly, the Ministry has

invited comments on the existing provisions of the 2012 Bill, to initiate stakeholder consultations on the same. Comments have to be submitted by April 10, 2015.

For a PRS analysis of the 2012 Bill, see [here](#).

### Bill related to regulation and taxation of undisclosed foreign income introduced

Prianka Rao ([prianka@prsindia.org](mailto:prianka@prsindia.org))

The Undisclosed Foreign Income and Assets (Imposition of Tax) Bill, 2015 was introduced in the Lok Sabha on March 20, 2015, by the Finance Minister, Mr. Arun Jaitley.<sup>6</sup>

The Bill will apply to Indian citizens and seeks to replace the Income Tax Act, 1961 for the taxation of foreign income. It penalizes the concealment of income, and provides for criminal liability for attempting to evade tax in relation to foreign income. Key provisions of the Bill include:

- **Tax rate:** A flat rate of 30 per cent tax would apply to undisclosed foreign income or assets. No exemption, deduction or set off of any carried forward losses (as provided under the Income Tax Act, 1961) would apply.
- **One - time compliance opportunity:** A one-time compliance opportunity to persons who have any undisclosed foreign assets will be provided for a limited period. Such persons would be permitted to file a declaration before a tax authority, and pay a penalty.
- **Prosecution and penalty for offences:**
  - **Willful tax evasion:** The punishment for willful attempt to evade tax in relation to foreign income or assets would be rigorous imprisonment from three to 10 years, and a fine. The penalty for non-disclosure of income would be equal to three times the amount of tax payable, in addition to tax payable at 30%.
  - **Failure to furnish returns:** If a person fails to furnish a return in respect of foreign assets or income, he would be liable for rigorous imprisonment of six months to seven years. Further, a penalty of Rs 10 lakh would apply. This would also apply to cases where the person has filed a return of income, but not disclosed his foreign assets.

## Select Committee presents report on Payment and Settlement Systems Bill

Prianka Rao ([prianka@prsindia.org](mailto:prianka@prsindia.org))

The Select Committee on the Payment and Settlement Systems (Amendment) Bill, 2014 submitted its report on February 26, 2015. Last year, the Bill was passed in the Lok Sabha on December 9, 2014.<sup>7</sup> It was then referred to a Select Committee of the Rajya Sabha on December 23, 2014.

The Bill amends the Payment and Settlement Systems Act, 2007, and seeks to increase transparency and stability of financial markets in line with globally accepted norms.<sup>8</sup> The 2007 Act designates the Reserve Bank of India (RBI) as the authority to regulate such systems. These systems include inter-bank transfers such as the National Electronics Funds Transfer system, ATMs, credit cards, mobile banking, etc.

The Committee recommended that the Bill be enacted without any changes. One of the key recommendations of the Committee was that the RBI must conduct oversight and issue suitable directions to system participants in payment and settlement systems (such as, banks) on their operations. This may be done through regulations under the Act or any other relevant law. Such directions would provide further regulatory support to the byelaws of Clearing Corporation of India Limited (CCIL). These byelaws require that system participants provide information of circumstances that may result in their winding up.

## Macroeconomic Developments

Tanvi Deshpande ([tanvi@prsindia.org](mailto:tanvi@prsindia.org))

### Retail inflation at 5.4% in February; WPI dips further to -2.06%

Consumer Price Index in February 2015 increased to 5.4%, year-on-year, from 5.2% in January 2015. The slight increase is on account of an increase in food inflation (weight 54.2% according to new estimates) from 6.3% to 6.8%.<sup>9,10</sup>

The Wholesale Price Index inflation decreased from -0.39% in January 2015 to -2.06% in February 2015. This is mainly on account of the fuel price index (coal, mineral oil and electricity), which fell by 14.7%, and non-

manufactured products, which fell by 5%, year-on-year.<sup>9</sup>

### IIP decreases by 2.6% in January 2015

The Index of Industrial Production (IIP) decreased to 2.6% in January 2015 (year-on-year), from 3.2% in December 2014.<sup>11</sup> Manufacturing production (weight of 75%), fell from 3.8% in December 2014 to 3.3% in January 2015, while electricity sector production (weight of 10%), fell from 4.8% in December 2014 to 2.7% in January 2015.

### Policy repo rate reduced by 0.25%

The Reserve Bank of India (RBI) reduced the policy repo rate on March 4, 2015 by 25 basis points, from 7.75% to 7.50%.<sup>12</sup> This is the second instance of the repo rate being reduced in the last year. It was last reduced from 8% to 7.75% in January 2015. Other decisions taken by the RBI include:

- The reverse repo rate has been adjusted to 6.5%, and the Marginal Standing Facility rate and Bank rate to 8.5%, with immediate effect.
- The Cash Reserve Ratio has been kept unchanged at 4% of the Net Demand and Time Liabilities (which roughly consist of all current, savings, and time deposits).

In addition to reducing the policy repo rate, the RBI also made statements regarding inflation targets. It aims to bring inflation rate to 4% (+/- 2) by the end of a two-year period starting from 2016-17.

### India's Balance of Payments for October to December 2014

In the third quarter (October-December) of 2014-15, India's current account deficit (CAD) stood at USD 8.2 billion, an increase of USD 4.0 billion from the CAD in the third quarter of 2013-14.<sup>13</sup> Table 1 shows the balance of payments of the country over the last quarter.

**Table 1: India's Balance of Payments from October-December 2014 (in USD billion)**

Items	Q3: 2013-14	Q2: 2014-15	Q3: 2014-15
A. Current Account	-4.2	-10.1	-8.2
B. Capital Account and Financial Account	4.8	11.8	10.0
C. Errors and Omissions	-0.6	-1.7	-1.8
Change in reserves: (Increase (-)/Decrease (+))	-13.2	-6.9	-19.1

Sources: RBI; PRS.

## Energy

Prachee Mishra ([prachee@prsindia.org](mailto:prachee@prsindia.org))

### The Mines and Minerals (Development and Regulation) Amendment Bill, 2015 passed by Parliament

The Mines and Minerals (Development and Regulation) Amendment Bill, 2015 was passed by Parliament on March 20, 2015.<sup>14</sup> The Bill replaces the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015.<sup>15</sup> The Bill amends the Mines and Minerals (Development and Regulation) Act, 1957, which regulates the mining sector in India.

- The Bill adds a new Fourth Schedule to the Act. It includes bauxite, iron ore, limestone and manganese ore, and these will be referred to as notified minerals.
- It also creates a prospecting license-cum-mining lease for undertaking prospecting operations (exploring or proving mineral deposits), followed by mining operations.
- The Bill increases the mining lease period for all minerals other than coal, lignite and atomic minerals, from 30 to 50 years.
- The Bill also extends existing leases for up to a maximum of 50 years. On expiry of these leases, instead of being renewed, they shall be put up for auction. All new leases shall be granted through auction by competitive bidding, including e-auction.

Rajya Sabha had referred the Bill to a Select Committee on March 11, 2015, which submitted its report on March 18, 2015. The Committee made the following recommendations:

- When making rules with regards to the District Mineral Foundation, state governments should be guided by: (i) Article 244 of the Constitution, which deals with scheduled and tribal areas, and (ii) Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996.
- The Ministry should consider issues such as: (i) impact of mining activities on environment, (ii) illegal mining, (iii) lack of scientific mine closure, (iv) absence of adequate emphasis on sustainable development framework, and (v) land acquisition and resettlement, etc.

However both Rajya Sabha and Lok Sabha passed the Bill without any changes.

For more details on the Bill, see [here](#).

### The Coal Mines (Special Provisions) Bill, 2015 Bill passed by Parliament

The Coal Mines (Special Provisions) Bill, 2015 was passed by Parliament on March 20, 2015.<sup>16</sup> The Bill replaces the Coal Mines (Special Provisions) Second Ordinance, 2014.<sup>17</sup>

The Bill seeks to amend the Coal Mines (Nationalisation) Act, 1973 (CMN Act) and the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act). The CMN Act is the primary legislation determining the eligibility for coal mining in India. The MMDR Act regulates overall mine development and the mining sector in India.

The Bill seeks to allocate the coal mines cancelled by the Supreme Court. It seeks to enable private companies to mine coal for sale in the open market.

The Bill creates three categories of mines: Schedule I, II and III. Schedule I mines include all the 204 coal mines cancelled by the Supreme Court. Schedule II includes the 42 Schedule I mines that are currently under production. Schedule III mines includes the 32 Schedule I mines that have been earmarked for a specified end-use.

The Bill specifies the method of allocation for these mines, the eligibility for allocation and the purpose for which coal mined from these mines can be used. It also creates a Nominated Authority to conduct the process of allocation. The Nominated Authority must be an officer of the rank of a Joint Secretary in the government.

Rajya Sabha had referred the Bill to a Select Committee on March 11, 2015, which submitted its report on March 18, 2015. The Committee did not recommend any changes to the Bill.

Both Lok Sabha and Rajya Sabha passed the Bill without any changes.

For more information on the Bill, see [here](#).

### **Cabinet gives approval for utilization of stranded gas based generation capacity**

The Cabinet Committee on Economic Affairs gave its approval to a policy to revive and improve utilization of gas based power generation capacity in the country.<sup>18</sup> This capacity has been under-utilized due to shortfall in the production of domestic natural gas in the country. The policy will create a mechanism through which Regasified Liquefied Natural Gas (RLNG) will be imported to supply to stranded gas plants so that they can generate power.

Under this mechanism, the central and state government will exempt the imported RLNG from certain taxes and levies. Gas transporters and re-gasification terminals will reduce their transportation tariff, marketing margin and re-gasification charges on RLNG. The central government has also proposed to provide support to Discoms from the Power System Development Fund (PSDF) through a transparent reverse e-bidding process.

With the discovery of domestic natural gas in the Krishna Godavari river basin, the availability of natural gas in the country was expected to increase. This led to the setting up of several gas based power plants. However, the supply of domestic gas to power plants from the river basin started declining in 2012 and completely stopped in March 2013. Since then, these gas based power plants have been under-utilized or not operating. This new mechanism is expected to improve the supply of natural gas to these plants.

## **Information Technology**

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### **Supreme Court strikes down section 66A of the Information Technology Act, 2000**

The Supreme Court struck down section 66A of the Information Technology (IT) Act, 2000 in its judgment on March 24, 2015. The judgment

related to a Public Interest Litigation (PIL) filed in 2012.<sup>19</sup>

The IT Act provides for the legal recognition of transactions through electronic communication or e-commerce. It also penalises various forms of cyber crime (illegal intrusion of computer network). In 2009, section 66A was inserted as a new section in the IT Act. The provision stated that any person who by means of a computer or communication device sends and information that is: (i) grossly offensive, (ii) false and meant for the purpose of causing annoyance, inconvenience, danger, obstruction, etc, persistently, or (iii) meant to deceive or mislead the recipient about the origin of such messages, shall be punishable with imprisonment up to three years and with fine.<sup>20</sup>

In its judgment the Supreme Court held the following:

- Section 66A creates offences which are vague and undefined and therefore open – ended. The section violates Article 19(1)(a) of the Constitution, which guarantees freedom of speech and expression.
- Section 66A does not qualify for the exceptional circumstances envisaged under Article 19(2) of the Constitution. Article 19(2) allows the government to place reasonable restrictions on the fundamental right to speech and expression in the interest of security, public order, defamation, incitement to an offence etc. The Court reasoned that information disseminated over the internet may be related to a discussion or advocacy of a point of view and is not connected to disturbing public order or inciting an offence.
- Extending from the rationale for striking down section 66A, the Court said the same would apply to section 118(d) of Kerala Police Act whose provisions are similar to section 66A of the IT Act.
- The Court upheld the constitutionality of section 69A (central government may block access to certain information if it satisfies certain criteria) and section 79 (an intermediary shall not be liable for any third party information shared by him) of the IT Act, and its Rules.

For a background on section 66A of the IT Act, please see the PRS Blog [here](#).

## Cabinet approves approach and key components of e-Kranti: NeGP 2.0

The Union Cabinet approved the approach and key components of the e-Kranti or National e-Governance Plan (NeGP) 2.0 on March 25, 2015. This programme will be implemented by the Department of Electronics and Information Technology under the Ministry of Communications and Information Technology.<sup>21</sup>

E-Kranti is one of the components of the Digital India programme. The aim of the programme is to deliver all government services electronically to citizens, at affordable costs, while ensuring efficiency and transparency. The first NeGP (launched in 2006) had revealed several implementation issues. The e-Kranti programme is being launched to improve delivery of government services such as e-education, e-healthcare, etc. Some key objectives are to:

- Redefine NeGP with outcome oriented e-Governance initiatives,
- Enhance portfolio of citizen centric services,
- Ensure optimum usage of core Information and Communication Technology (ICT), and
- Leverage emerging technologies.

Some of e-Kranti's key principles include providing ICT infrastructure on demand, cloud by default, fast tracking approvals, National Geo-Spatial Information System, etc. The programme management structure approved for Digital India would be used for monitoring the implementation of e-Kranti as well.

## CCEA approves the National Supercomputing Mission

The Cabinet Committee on Economic Affairs approved the launch of the National Supercomputing Mission (NSM) on March 25, 2015. It will be jointly implemented by the Department of Science and Technology and the Department of Electronics and Information Technology at an estimated cost of Rs 4,500 crore over a period of seven years.<sup>22</sup>

The NSM has been conceptualised in response to the increasing computing demands of the scientific and academic sectors in the country. It aims to:

- Install a vast supercomputing grid comprising of around 70 high-performance computing facilities,

- Professionally train human resources for meeting challenges in the development of applications,
- Provide qualitative and quantitative improvement in research and development (R&D) and higher education, in the disciplines of science and technology,
- Enable comparability to countries advanced in supercomputing such as the US, Japan, China, etc.

Supercomputers will also be networked on the National Supercomputing grid over the National Knowledge Network, which is a programme connecting academic institutions and R&D labs over a high speed network. These institutions as well as departments and ministries of the government will use supercomputing facilities and develop applications of national relevance.

## Labour

Anviti Chaturvedi ([anviti@prsindia.org](mailto:anviti@prsindia.org))

### Comments invited on Draft Labour Code on Wages Bill, 2015

The Ministry of Labour and Employment has invited comments on the Draft Labour Code on Wages Bill, 2015 by April 20, 2015.<sup>23</sup> The Draft Bill provides for minimum wages, payment of wages and bonuses, and prohibits gender-based discrimination in wage-matters. It repeals four central laws: (i) Minimum Wages Act, 1948; (ii) Payment of Wages Act, 1936; (iii) Payment of Bonus Act, 1965; and (iv) Equal Remuneration Act, 1976.

Key provisions in the Bill include:

- **Minimum wages:** The Bill requires the state governments to fix the minimum wages applicable to different employments, and review them periodically. It provides for the constitution of a Minimum Wages Advisory Board in every state for advising state governments in fixation and revision of minimum wages.
- **Payment of wages:** The Bill provides that wages shall be paid to all employees by depositing them in bank accounts. Wages below a limit fixed by central or state government may be payable in cash. It also contains provisions specifying deductions

which are permissible from wages (such as, deductions for fines or absence from duty).

- **Payment of bonus:** The Bill specifies certain criteria to determine which employees shall be eligible for bonus (such as, at least 30 days of work in a year). It specifies the minimum bonus which may be awarded. Additional bonus, above the minimum bonus, may be provided, but total bonus cannot exceed 20% of wages earned by an employee in a year. Other provisions specify disqualifications for bonus, method of calculating bonus, time limit for paying bonus, etc.
- **Other provisions:** The Bill prohibits discrimination on grounds of gender in the matter of wages. It provides for civil and criminal sanctions. It requires the central and state governments to appoint authorities to deal with civil claims under the Bill. The Bill also prescribes criminal penalties for persons and companies contravening its provisions, ranging from fines to imprisonment.

## Home Affairs

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### The Andhra Pradesh Reorganisation (Amendment) Bill, 2015 introduced and passed by Parliament

The Andhra Pradesh Reorganisation (Amendment) Bill, 2015 was introduced in Lok Sabha on March 2, 2015. It was passed by Parliament on March 20, 2015.<sup>24</sup>

The Bill seeks to amend the Andhra Pradesh Reorganisation Act, 2014. The Act provides for the bifurcation of Andhra Pradesh into the states of Andhra Pradesh and Telangana.

The Act provides for two Legislative Councils, one for Andhra Pradesh with up to 50 members, and another for Telangana with up to 40 members. The Bill amends this provision with regard to the Legislative Council of Andhra Pradesh to allow for 58 members.

For a PRS Bill Summary, please see [here](#).

### The Citizenship (Amendment) Bill, 2015 passed by Parliament

The Citizenship (Amendment) Bill, 2015 was passed by Parliament on March 4, 2015.<sup>25</sup> The Bill amends the Citizenship Act, 1955 which regulates the acquisition and determination of citizenship. It replaces the Citizenship (Amendment) Ordinance, 2015.

Key amendments include:

- Under the Act, an applicant for citizenship is required in some cases to have continuous stay for one year in the country before applying. The Bill allows the central government to relax the requirement of one year by a maximum of 30 days.
- The Act specifies certain grounds on which a person may be eligible for an Overseas Citizen of India (OCI) card. An OCI cardholder is entitled to some benefits such as multiple-entry, multi-purpose life-long visa to visit India. The Bill allows the central government to register a person as an OCI cardholder in special circumstances even if none of the grounds are satisfied.
- The Bill provides additional grounds on which a person may register for an OCI card. For example, a minor child whose parent/s are Indian citizens could not have applied for an OCI card under the Act, but he can under the Bill.
- The Bill provides for the merger of the Person of Indian Origin (PIO) and OCI schemes. PIO cardholders enjoy fewer benefits than OCI cardholders. For example, they are entitled to 15 years of visa free entry into India, while OCI cardholders are provided a life-long visa.

For a PRS Bill Summary, please see [here](#).

### Standing Committee submits report on the Anti-Hijacking Bill, 2014

The Standing Committee on Transport, Tourism & Culture (Chairperson: Mr. Kanwar Deep Singh) submitted its report on the Anti-Hijacking Bill, 2014 on March 11, 2015.<sup>26</sup>

Among other things, the Bill seeks to: (i) repeal the Anti-Hijacking Act, 1982; (ii) expand the definition of aircraft hijacking (for example, by covering hijacking by technological means); (iii) include related offences (like, threatening/organising a hijacking) within the

definition of hijacking; and (iii) provide capital punishment for hijackers and conspirators/abettors in cases where the offence results in death of hostage or security personnel.

Key recommendations of the Standing Committee include:

- The following acts should be made punishable: (i) preparing for hijacking; and (ii) making hoax calls. Hoax calls refer to an act of reporting a hijacking which one knows to be false so as to create panic. These acts are currently not covered in the Bill.
- The Bill provides for: (i) death penalty where the hijacking results in death of hostage or security personnel; and (ii) life imprisonment in all other cases. The Standing Committee recommended that death penalty should be mandatory in cases where death of *any* person is caused as a direct consequence of aircraft hijacking.
- Necessary provisions should be added to provide for compensation for victims of hijacking or their dependents. The Bill currently does not provide for compensation.

For a PRS Summary of the Standing Committee Report, please see [here](#).

### **Government withdraws the Border Security Force (Amendment) Bill, 2011**

The Border Security Force (Amendment) Bill, 2011 that was pending in the Rajya Sabha was withdrawn by the Ministry of Home Affairs on March 16, 2015.<sup>27</sup> The Bill sought to amend the Border Security Force (BSF) Act, 1968, which provides for establishment of the Border Security Force as an armed force of the centre to ensure security of the borders. The Bill proposed to extend the area of operation of the BSF to any area within the territory of India as notified by the government. This amendment would have enabled BSF to operate in areas affected by left wing extremism.

### **33% reservation for women in non-gazetted posts in police forces of union territories**

The Cabinet approved reservation of 33% for women in the police forces of all union territories on March 20, 2015.<sup>28</sup> This reservation is applicable in cases of direct recruitment to non-

gazetted posts ranging from constable to sub-inspector. Non-gazetted officers refer to personnel whose appointments and promotions do not need to be published in the union/state gazette. The 33% reservation for women will also apply to posts reserved for Scheduled Castes, Scheduled Tribes, and Other Backward Classes categories.

## **Transport**

*Prachee Mishra (prachee@prsindia.org)*

### **Motor Vehicles (Amendment) Bill, 2015 passed by Parliament**

The Motor Vehicles (Amendment) Bill, 2015 was passed by Parliament on March 11, 2015.<sup>29</sup> The Bill replaces the Motor Vehicles (Amendment) Ordinance, 2015.<sup>30</sup> It seeks to amend the Motor Vehicles Act, 1988.

The Bill brings e-carts and e-rickshaws under the ambit of the Act. The Bill defines e-carts and e-rickshaws as special purpose battery powered vehicles, having three wheels, and with power up to 4000 watts. They are defined as separate from motor vehicles.

Under the Act, a person shall be granted a learner's licence to drive a public transport vehicle, only if he has held a driving licence to drive a light motor vehicle for at least one year. The Bill exempts e-rickshaw and e-cart drivers from this requirement.

For more details on the Bill, see [here](#).

### **Cabinet approves law to declare inland waterways as national waterways**

On March 25, 2015, the Cabinet gave approval for a law to declare 101 identified inland waterways as national waterways.<sup>31</sup> The central government can undertake the development of an inland waterway for navigation when it is declared as a national waterway by an Act of Parliament. Declaring a waterway as a national waterway brings its development and regulation under the jurisdiction of the central government. However, rights over the usage of water, ownership of land, minerals, sand, etc. continue to be with the state government.

This is being done to develop alternate modes of transport on waterways. According to the central

government, this will also help create a logistic supply chain with intermodal connectivity.

In the last 30 years, five waterways have been declared as national waterways. These include Allahabad-Haldia stretch of Ganga-Bhagirathi-Hooghly river system, and designated stretches of East Coast Canal, Brahmani River and Mahanadi delta.

## Law and Justice

Prianka Rao ([prianka@prsindia.org](mailto:prianka@prsindia.org))

### Repealing and Amending Bill, 2014 passed in Lok Sabha; Cabinet approves Bill to repeal 758 Appropriation Acts

The Repealing and Amending Bill, 2014 was passed in Lok Sabha on March 18, 2015. It was introduced in Lok Sabha on August 11, 2014 following which it was referred to the Standing Committee on Law and Justice which submitted its report on December 18, 2014.

The Bill seeks to repeal those enactments which have ceased to be in force or have become obsolete. This is a periodic measure carried out to update the list of laws in force, and does not make any substantial changes.<sup>32</sup>

More information on the Bill is available [here](#).

Further, on March 20, 2015, the Cabinet approved a Bill to repeal 758 Appropriation Acts.<sup>33</sup> These include the Railways Appropriation Acts enacted from 1950 to 2012, and 111 state Appropriation Acts enacted by Parliament since 1950 to 1976.

### Law Commission submits report on Electoral Reforms

The Law Commission of India submitted its 255<sup>th</sup> Report on 'Electoral Reforms' to the Law Ministry on March 12, 2015.<sup>34</sup> This report is a sequel to a previous report on Electoral Disqualifications in February 2014.<sup>35</sup>

Key recommendations on the report include:

- **Election Finance:** The Commission made several recommendations including: (i) regulation of election expenses must be from the date of notification of elections to the date of declaration of results. At present, it applies from the date of nomination to the date of declaration of

results; (ii) political parties must be required to maintain and submit annual accounts to Election Commission of India (ECI), every financial year. Such accounts must be audited by a qualified chartered accountant, from a panel maintained by the Comptroller and Auditor General.

- **Anti defection law:** The Commission recommended that the 10<sup>th</sup> Schedule of the Constitution be amended to grant power to the President or Governor (who would act on the advice of the ECI) to decide on questions of disqualification on grounds of defection. At present, such power vests with the Speaker or the Chairman. The Commission stated that this would help preserve the integrity of the Speaker's office.
- **Restrictions on candidates:** The commission recommended that: (i) candidates must be permitted to stand for elections from only one constituency; (ii) independent candidates must be disbarred from contesting elections. It noted that this provision has been abused as dummy candidates are planted to increase the voters' confusion.
- **Paid news and advertisements:** The Commission made several recommendations on this issue, including: (i) the terms 'paying for news', 'receiving payment for news' and 'political advertisement' must be defined in the Representation of the People Act, 1951; (ii) such acts must be treated as electoral offences with stringent punishment.

## Social Justice

Joyita Ghose ([joyita@prsindia.org](mailto:joyita@prsindia.org))

### Bill to amend list of Scheduled Castes in certain states passed by Parliament

The Constitution (Scheduled Castes) Order (Amendment) Bill, 2014 was passed by Parliament on March 17, 2015.<sup>36</sup>

The Bill adds certain communities to the list of Scheduled Castes in Dadra and Nagar Haveli, Haryana, Karnataka and Odisha. It amends the Constitution (Scheduled Castes) Order, 1950 and

the Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962.

For a PRS Bill Summary, please see [here](#).

### Supreme Court sets aside government's decision to include Jats in the central list of OBCs for certain states

On March 17, 2015, the Supreme Court set aside the decision of the central government to include Jats in the central list of Other Backward Classes (OBCs) for certain states.<sup>37</sup>

In February 2014, the National Commission for Backward Classes (NCBC), after having examined the issue, had recommended not including Jats in the central list of OBCs.

However, on March 4, 2014, the central government included Jats in the central list of OBCs in Bihar, Gujarat, Haryana, Himachal Pradesh, Delhi, Rajasthan (Bharatpur and Dholpur districts), Uttar Pradesh, and Uttarakhand.

The Court made the following major observations while setting aside the government's decision:

- **On bypassing the advice of the NCBC:** The Court pointed out that: (i) the observations in *Indra Sawhney vs. the Union of India*, and (ii) the provisions of the National Commission for Backward Classes Act, 1993; indicate that the recommendations of the NCBC are normally binding on the government.<sup>38,39</sup> Further, there was no valid reason for the government to bypass the advice of NCBC.
- **On the determination of 'backwardness':** The Court pointed out that backwardness is caused by factors which may be social, cultural, economic, educational, political, etc. While backwardness has been associated with caste in the past, the Court has discouraged the identification of a group as backward only on the basis of caste. The Court stated that new methods must be developed to identify new groups which deserve the protection of the State, such as transgenders, moving away from a 'caste-centric' definition of backwardness.
- **On using outdated reports and lists:** The government argued that the OBC lists of states can be a reasonable ground for the inclusion of communities in the central list of OBCs. However, the Court pointed that

that in all cases (except Haryana) the inclusion of Jats in the OBC list was over a decade ago; and therefore outdated.

## Agriculture

*Tanvi Deshpande (tanvi@prsindia.org)*

### Warehousing Corporations (Amendment) Bill, 2015 passed by Lok Sabha

The Warehousing Corporations (Amendment) Bill, 2015 was passed by Lok Sabha on March 18, 2015.<sup>40</sup> It was introduced in Lok Sabha on March 3, 2015. The Bill seeks to amend the Warehousing Corporations Act, 1962. Key provisions of the Bill include:

- The Bill seeks to do away with the Central Government's responsibility of being a financial guarantor to the central warehousing corporation.
- In doing so, the Central Warehousing Corporation would maintain its status of being a Mini-Ratna Public Enterprise.

For a PRS Bill Summary, please see [here](#).

## Health

*Mandira Kala (mandira@prsindia.org)*

### Cabinet approves amendments to the Homoeopathy Central Council Act, 1973

On March 31, 2015 Cabinet approved changes to the Homoeopathy Central Council Act, 1973.<sup>41</sup> The Homoeopathy Central Council Act establishes a central council to regulate the homoeopathy profession, recognize homoeopathic institutions, set minimum standards for homoeopathy education, and maintain a register of all practitioners.

The amendments include requiring central government permission by all homoeopathy medical colleges for continuing courses. Central government permission will be mandatory to undertake annual admissions in homoeopathy colleges. Such permission will be valid for five years for colleges that conform to prescribed minimum standards.

## Telecom

*Apoorva Shankar (apoorva@prsindia.org)*

### Auction of spectrum in 2100, 1800, 900 and 800 MHz bands concludes

The auction of spectrum in 2100, 1800, 900 and 800 MHz bands concluded after a total of 115 rounds of bidding over 19 days, on March 25, 2015. Around 89% of 470.75 MHz spectrum has been provisionally allocated to bidders since the commencement of the auction on March 4, 2015. The amount committed by bidders is Rs 1,09,874 crore over the Rs 80,277 crore estimated by the Department of Telecommunications.<sup>42</sup>

The auction was subject to an order of the Supreme Court as certain telecom companies had challenged the design of the notice inviting tenders. However, the Court allowed the central government to finalise the result of the spectrum auction on March 25, 2015. The petition will be further taken up by the Court on April 16, 2015.<sup>43</sup>

For more details on the auction process, please see the PRS Monthly Policy Review for January 2015, [here](#).

### TRAI releases a consultation paper on regulation of over-the-top services

The Telecom Regulatory Authority of India (TRAI) released a consultation paper on the regulatory framework for over-the-top services on March 27, 2015. TRAI has invited written comments on the paper till April 24, 2015.<sup>44</sup>

Over-the-top (OTT) services and applications are those which are accessible over the internet. OTT providers are hosted by Telecom Service Providers (such as Bharti Airtel, Vodafone, etc) and offer internet access services such as Skype, Viber, WhatsApp, etc. Currently in India, OTTs are not regulated. The consultation paper has been released by TRAI to determine whether OTTs need to be regulated and in what manner, given their proliferation.

The growth of OTT services can be attributed to technology improvement, cost incentives, scalability of services, etc. The contention of TSPs is that they have invested in infrastructure and incurred other costs associated with operation of the network and OTTs are freely riding on these. However, it could be argued that use of OTTs results in increased data usage and therefore additional revenue for TSPs. From a

national perspective, OTTs may impact the economy, cause regulatory imbalances and security issues.

The main issues for consultation include:

- Whether it is too early to establish a regulatory framework for OTT services and whether these players should be brought under the licensing regime,
- Whether OTT players should pay for the use of TSPs network,
- The method of addressing security concerns with regard to OTT players providing communication services,
- Net neutrality, and
- Whether the network upgradation costs should be borne by TSPs or OTTs, etc.

## Skill Development

*Apoorva Shankar (apoorva@prsindia.org)*

### Pradhan Mantri Kaushal Vikas Yojana approved by the Cabinet

The Pradhan Mantri Kaushal Vikas Yojana was approved by the Union Cabinet on March 20, 2015. It is a scheme for skill training of youth to be implemented by the Ministry of Skill Development and Entrepreneurship through the National Skill Development Corporation (NSDC). Skill training would be imparted based on the National Skill Qualification Framework.<sup>45</sup>

Some of the key features of the scheme include:

- **Coverage:** The scheme will cover 24 lakh people. It will focus on first time entrants to the labour market and will target Class 10 and 12 drop outs. A one-time monetary reward of around Rs 8,000 per trainee will be given under the scheme.
- **Outlay:** The Cabinet approved a total outlay of Rs 1,500 crore for the scheme. Out of this, Rs 1,120 crore will be spent on skill training, Rs 220 crore on recognition of prior learning, Rs 67 crore on awareness building, mobilisation and mentorship support, and Rs 150 crore for training of youth from the North-East region.
- **Assessing demand:** Skill training would be done on the basis of demand assessed by skill gap studies, conducted by the NSDC

for 2013-17. A demand aggregator platform would be launched.

- **Implementation:** The scheme would be implemented through NSDC's 187 training partners (with 2,300 centres), in addition to government affiliated training partners. Training would include soft skills, personal grooming, good work ethics, etc. A Skill Development Management System would be put in place to verify and record details of training centres. A grievance redressal system will also be instituted.

## Environment

Joyita Ghose ([joyita@prsindia.org](mailto:joyita@prsindia.org))

### Wild Life (Protection) Amendment Bill, 2013 withdrawn from Parliament

The Wild Life (Protection) Amendment Bill, 2013 was withdrawn from Parliament on March 18, 2015.<sup>46</sup>

The Bill sought to amend the Wild Life (Protection) Act, 1972. It inserted provisions to regulate international trade in endangered species of wild flora and fauna as per the Convention on International Trade in Endangered Species of Wild Flora and Fauna. It increased the term of punishment and amount of fines for offences under the Act. It also allowed for certain activities such as grazing or movement of livestock in a sanctuary, with a permit.

The Ministry of Environment, Forests and Climate Change sought to withdraw the Bill and conduct a more comprehensive review of the Act.<sup>47</sup> The Standing Committee on Science, Technology, Environment and Forests examined the Bill and agreed with the Ministry, and stated that a more comprehensive Bill be drafted after a review of the Act.

For a PRS Bill Summary, please see [here](#).

## Media

Apoorva Shankar ([apoorva@prsindia.org](mailto:apoorva@prsindia.org))

### TRAI issues recommendations on reserve prices for auction of FM Radio channels

The Ministry of Information and Broadcasting had sought the Telecom and Regulatory

Authority's (TRAI) recommendations on reserve prices for auction of FM Radio channels in 264 new cities on December 16, 2014. 831 channels are proposed to be auctioned through an ascending e-auction process as provided in the Phase-III policy.<sup>48</sup>

TRAI had issued a consultation paper, inviting comments on reserve prices for auction of FM Radio channels in new cities, in February 2015. After receiving comments from stakeholders, it made certain recommendations:<sup>49</sup>

- The valuation of FM Radio channels in 253 new cities has been worked out as a simple mean of the three valuation approaches. These are based on certain variables: (i) population of the city, (ii) per capita Gross State Domestic Product, (iii) listenership of FM Radio, and (iv) per capita Gross Revenue earned by the existing FM Radio operators. The reserve price for FM Radio channels for each of the new cities has been fixed at 0.8 times the valuation for each city.
- The recommended reserve prices for FM Radio channels in each of the 253 new cities have been detailed as well.
- The reserve prices in 11 border cities in the 'others' category (having a population of less than one lakh), should be five lakh rupees per channel. These would mainly include cities in Jammu and Kashmir and the North-Eastern region.

For more information on the auction consultation paper, please see the PRS Monthly Policy Review for February 2015, [here](#).

## Commerce and Industry

Tanvi Deshpande ([tanvi@prsindia.org](mailto:tanvi@prsindia.org))

### Draft framework for revival of Micro, Small and Medium Enterprises (MSMEs)

The Ministry of Micro, Small and Medium Enterprises has released a draft Framework for Revival of Micro, Small and Medium Enterprises (MSMEs) Order, 2015.<sup>50</sup> The draft Framework seeks to enable sick MSMEs to obtain financial support. Key provisions of the draft Framework include:

- **Classification of sick MSMEs:** Banks are required to classify MSMEs into three

categories, based on overdue principal or interest payments. MSMEs that predict a failure of business or inability to pay debts can voluntarily initiate proceedings under the proposed Framework.

- **Committees for distressed MSMEs:** All banks are required to constitute committees for distressed MSMEs. MSMEs will approach these committees to make a corrective action plan (CAP) to initiate rescue proceedings, and the committee will decide whether or not a recovery is to be made by the MSME.
- **Corrective action plan:** The Framework specifies the procedure for applying for a CAP, and the eligibility criteria for applying for the same.
- Under the CAP, the committee has three options to proceed: (i) Rectification: Commitment by the enterprise to get itself out of a state of distress, (ii) Restructuring: Entering into a debt restructuring process, and (iii) Recovery: If neither of the two options above are feasible, the committee may decide on the best option of legal and other recovery processes to be followed.
- **Review:** The enterprise may request for a review of the committee's decision.

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<sup>7</sup> The Payment and Settlement Systems (Amendment) Bill, 2014, Ministry of Finance,

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<sup>10</sup> "Consumer Price Index Numbers on Base 2012=100 for Rural, Urban and Combined for the Month of February 2015", Press Information Bureau, Ministry of Statistics and Programme Implementation, March 12, 2015.

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