

# Monthly Policy Review

May 2016

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## Highlights of this Issue

### [Budget Session 2016 ends; 14 Bills passed by Parliament \(p. 2\)](#)

Over the two parts of Budget Session 2016, Parliament passed Bills including the Insolvency and Bankruptcy Code, the Aadhaar Bill, the Mines and Mineral Bill, the Sikh Gurdwaras Bill, and the Real Estate Bill.

### [GDP grows at 7.9% in the fourth quarter of 2015-16 \(p. 2\)](#)

Gross Value Added of goods and services grew at 7.4% in this quarter. Growth in the agricultural sector increased, whereas growth in the manufacturing, construction and services sectors decreased over the last quarter.

### [Ordinances providing for a uniform medical entrance examination promulgated \(p. 6\)](#)

A uniform entrance exam will be conducted for admissions at the undergraduate and post graduate level for all medical and dental colleges. States have been provided with certain exemption with regard to conducting this exam.

### [Bill to amend SARFAESI and RDDBFI Acts introduced in Lok Sabha \(p. 3\)](#)

The Bill amends the SARFAESI Act to introduce a time-limit for enforcement of security interest. It also defines procedures to be undertaken in case of debt recovery proceedings under RDDBFI Act.

### [Committee constituted by Finance Ministry to review FRBM Act \(p. 4\)](#)

The Committee's terms of reference include: i) reviewing the functioning of the FRBM Act, ii) reviewing factors on which fiscal deficit targets are determined, and iii) examining the feasibility to provide a fiscal deficit target range.

### [Draft Bills related to health, human trafficking and geospatial information released \(p. 6, 8\)](#)

The draft Bills are the Medical Treatment of Terminally-ill Patients Bill, 2016, the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2016 and the Geospatial Information Regulation Bill, 2016.

### [Draft Model Rules, 2016 released for Juvenile Justice Act, 2015 \(p. 14\)](#)

The Act allows children between the ages of 16-18 years to be tried as adults, for certain offences. The draft Rules specify the procedure to be followed in such cases, and also lays out procedures relating to adoption and foster care.

### [Committees submit reports on several topics \(p. 9, 12, 17\)](#)

Parliamentary Committees, Expert Committees and the CAG submitted reports on topics such as the Ganga Rejuvenation, best practices in road construction and implementation of the National Food Security Act 2013.

### [Cabinet approves the National Capital Goods Policy, 2016 \(p. 9\)](#)

Recommendations of the Policy include developing a stable tax and duty structure, promoting exports of capital goods, and promoting the development of small and medium enterprises through a cluster-based approach.

### [Draft National Policy for Women, 2016 released for consultation \(p. 15\)](#)

The Policy aims to develop practices which will ensure equal rights and opportunities for women. It covers seven priority areas, such as health, education and also aims to address several emerging issues that affect women.

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June 1, 2016

## Parliament

Tanvi Deshpande (tanvi@prsindia.org)

### Budget session of Parliament ends

Budget session 2016 of Parliament ended on May 13, 2016. While Lok Sabha adjourned two days before schedule, on May 11, 2016, Rajya Sabha adjourned as scheduled. The session was originally planned to be held in two parts: from February 23 to March 16 and April 25 to May 13. However, at the end of March, both Houses were prorogued to enable the government to issue an Ordinance. The two parts of the session were converted into two separate sessions, with the same dates.

Over these two sessions, Parliament passed 17 Bills, including the Insolvency and Bankruptcy Code, 2015, the Aadhaar Bill, 2016, the Real Estate Bill (Regulation and Development), 2013, and the Sikh Gurdwaras Bill, 2016.

Some Bills were passed by Lok Sabha in this session and are pending in Rajya Sabha. These include the Compensatory Afforestation Fund Bill, 2015, the Enemy Property Bill, 2016 (replaced an Ordinance) and the Regional Centre for Biotechnology Bill, 2016.

Bills introduced in this session and currently pending in Parliament are the Companies (Amendment) Bill, 2016 and the Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Bill, 2016. The latter Bill was referred to a Joint Committee for examination.

During the session, various Parliamentary Committees submitted reports on Bills including the Insolvency and Bankruptcy Code, 2015, the Benami Transactions (Prohibition) Amendment Bill, 2015, the Compensatory Afforestation Fund Bill, 2015, and the Enemy Property Bill, 2016.

For more details on the functioning of Parliament in Budget session 2016, please see [here](#) and [here](#).

## Macroeconomic Development

Tanvi Deshpande (tanvi@prsindia.org)

### GDP grows at 7.9% in the fourth quarter of 2015-16

The Gross Domestic Product (GDP) of the country grew at 7.9% in the fourth quarter (January to March) of 2015-16.<sup>1</sup> The annual GDP growth for the year is 7.6%, at constant prices, as compared to 7.2% in 2014-15.

GDP growth across economic sectors is measured in terms of Gross Value Added (GVA). GVA of the country grew at 7.4% in the fourth quarter of 2015-16, as compared to 6.9% in the third quarter.

**Table 1: Gross Value Added across sectors in Q4 of 2015-16 (% growth year-on-year)**

Sector	Q4	Q3	Q4
	2014-15	2015-16	2015-16
Agriculture, forestry and fishing	-1.7	-1	2.3
Mining & quarrying	10.1	7.1	8.6
Manufacturing	6.6	11.5	9.3
Electricity, water supply and other utility services	4.4	5.6	9.3
Construction	2.6	4.6	4.5
Services	9.3	9.1	8.7
<b>GVA</b>	<b>6.2</b>	<b>6.9</b>	<b>7.4</b>

Note: GVA at basic prices including taxes on products and without subsidies, is GDP at factor cost. The data is at 2011-12 base year levels.

Sources: MOSPI; PRS.

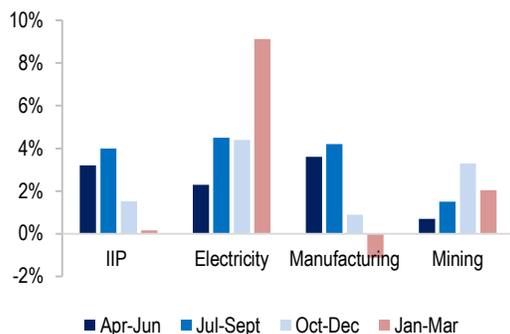
Agricultural growth has increased from -1% (year-on-year) in the third quarter of 2015-16, to 2.3% in the fourth quarter of 2015-16. However, growth in the manufacturing, construction and services (hotels, transport, financial services, public administration, etc) sectors has decelerated from the third quarter to the fourth quarter of 2015-16.

### Industrial production grows at 0.2% in the fourth quarter of 2015-16

Index of Industrial Production (IIP) in the country increased by 0.2% in the fourth quarter (January 2016 – March 2016) of 2015-16, year on year.<sup>2</sup> Manufacturing production decreased by 1.1%, whereas electricity and mining production increased by 9.1% and 2% respectively. Over the past year, from April 2015 to March 2016, IIP had an overall growth of 2.4%, over 2014-15.

Note that IIP growth is significantly lower than the manufacturing growth shown in the GDP data. One of the reasons is that IIP is based on a narrower sample of companies, mostly large manufacturers, whereas GDP is computed from a larger set of companies from the data filed with the ministry of corporate affairs.

**Figure 1: Trend in IIP in 2015-16**



Sources: MOSPI; PRS.

## Finance

### Insolvency and Bankruptcy Code, 2016 passed by Parliament

Vatsal Khullar ([vatsal@prsindia.org](mailto:vatsal@prsindia.org))

The Insolvency and Bankruptcy Code, 2016 was passed by Parliament on May 11, 2016.<sup>3</sup> The Code was introduced in December 2015 and referred to a Joint Committee of Parliament (Chair: Mr. Bhupender Yadav). The Committee submitted its recommendations and proposed a modified Code in April 2016. While the basic framework remains the same, the Committee made some suggestions to the Code, which included adding provisions relating to cross-border insolvency. The version of the Code which was submitted by the Joint Committee was passed by Parliament.

The Code provides a 180-day time-bound insolvency resolution process for companies, partnerships and individuals. It repeals two Acts and amends 11 laws, including the Companies Act, 2013.

Key features of the Code include:

- **Insolvency Resolution Process:** The resolution process may be initiated by the debtor or creditors upon a default in repayment. The process will have to be

completed within 180 days, which may be extended up to 270 days in certain circumstances. During the process, the creditors will decide to either restructure the company's debt, or sell its assets to recover their outstanding dues. The proceeds from the sale of assets will be distributed in an order of priority.

- **Insolvency Professionals:** The resolution process will be managed by licensed insolvency professionals. These professionals will take over the operations of the company during the process. The professionals will be members of insolvency professional agencies, which will conduct examinations to enrol them, and enforce a code of conduct.
- **Information Utilities:** The information utilities will collect and store financial information related to a debtor. This information may be used as evidence during the resolution process.
- **Insolvency and Bankruptcy Board:** The Insolvency and Bankruptcy Board will be established as a regulator. It will oversee the functioning of insolvency professionals and agencies, and information utilities.

The Code received Presidential assent on May 28, 2016.

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

### Bill to amend SARFAESI and RDDBFI Acts introduced in Lok Sabha

Vatsal Khullar ([vatsal@prsindia.org](mailto:vatsal@prsindia.org))

The Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Bill, 2016 was introduced in Lok Sabha by the Minister of Finance, Mr. Arun Jaitley, on May 11, 2016.<sup>4</sup> It was subsequently referred to a Joint Committee of Parliament (Chair: Mr. Bhupender Yadav) for examination. The Committee is expected to submit its report by the first week of Monsoon session of Parliament this year.

The Bill seeks to amend four laws: (i) the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI), (ii) the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (RDDBFI), (iii) the Indian Stamp Act, 1899, and (iv) the Depositories Act, 1996.

Key provisions of the Bill include:

- **The SARFAESI Act:** The Act allows secured creditors to take possession over a collateral, against which a loan has been provided, in the case of a default in repayment. This process is undertaken with the assistance of the District Magistrate, and does not require the intervention of courts or tribunals. The Bill provides that this process will have to be completed within 30 days by the Magistrate.
- The Act created a central registry to maintain records of transactions related to secured assets (collateral). The Bill creates a central database to integrate records of the central registry with those of other registration systems. This includes integration of registrations made under the Companies Act, 2013, the Registration Act, 1908 and the Motor Vehicles Act, 1988.
- The Act empowered the Reserve Bank of India (RBI) to examine the statements and information of asset reconstruction companies related to their business. The Bill further empowers the RBI to also carry out audit and inspection of these companies.
- **The RDDBFI Act:** The Act provides that banks and financial institutions will be required to file cases in tribunals having jurisdiction over the defaulter's area of residence or business. The Bill allows banks to file cases in tribunals having jurisdiction over the area of bank branch where the debt is pending.

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

### Committee constituted to review FRBM

*Aravind Gayam (aravind@prsindia.org)*

The Ministry of Finance set up a Committee to review the Fiscal Responsibility and Budget Management (FRBM) Act, 2003 on May 17, 2016.<sup>5</sup> The FRBM Act, 2003 sets yearly fiscal deficit targets to be met by the government. The Finance Minister, in his Budget speech of 2016-17 had announced that the FRBM Act was to be reviewed in this year, to explore the possibility of having a fiscal deficit target range.<sup>6</sup> The Committee has been constituted following this announcement.

The terms of reference of the Committee include: (i) reviewing the functioning of the Act over the last 12 years and suggesting the way

forward, (ii) reviewing the factors taken into consideration while determining yearly targets under the Act, (iii) examining the need and feasibility to have a fiscal deficit target range for every year, as opposed to a fixed target, and (iv) examining the feasibility for the government to align fiscal deficit with changes in the credit flow in the economy.

The Committee is expected to submit its report by October 31, 2016.

## Environment

*Anviti Chaturvedi (anviti@prsindia.org)*

### Compensatory Afforestation Fund Bill, 2015 passed by Lok Sabha

The Compensatory Afforestation Fund Bill, 2015 was passed by Lok Sabha on May 3, 2016.<sup>7</sup> The Standing Committee on Science and Technology, Environment and Forests had submitted its recommendations on the Bill on February 26, 2016.<sup>8</sup> The Bill was passed with amendments, addressing some of the Standing Committee's recommendations.

The Bill seeks to establish Compensatory Afforestation Funds at the national and state levels. These Funds will receive payments collected to compensate for loss of the forest ecosystem, when forest land is diverted for non-forests uses (such as industrial projects). The Bill regulates administration and use of the monies in the Funds.

Key amendments incorporated in the Bill at the time of passage in Lok Sabha include:

- **Inclusion of more experts:** The Bill establishes national and state authorities to administer the Funds. The amendments increase the strength of these authorities to include more experts. For example, the number of experts in the national authority has been increased from 11 to 15 (the national authority has a total of about 50 members).
- **Approval of annual plans:** Under the Bill, the national authority will approve the annual plans of operations prepared by state authorities. These plans provide details of how the money in the State Funds will be utilised. The amendments fix a time limit of

three months for the national authority to approve the annual plans.

- **Definition of environmental services:** Under the Bill, the Funds will include compensation for loss of ‘environmental services’ provided by the forest. Before amendment, the Bill defined ‘environmental services’ exhaustively as provision of goods and services (like fuel and fodder), non-material benefits (like recreational benefits), etc. The amendments make the definition inclusive to allow for other items to be considered environmental services. It also removes some of the mentioned items, like non-material benefits.

For a PRS analysis on the Bill, see [here](#). For a PRS Summary of the Standing Committee recommendations, see [here](#).

### Standing Committee submits report on effects of tobacco curing on environment and health

The Standing Committee on Science and Technology, Environment and Forests submitted its report on the ‘Effects of Tobacco Curing on Environment and Health’ on May 10, 2016.<sup>9</sup> Tobacco curing refers to the process of drying tobacco leaves to reduce their chlorophyll content, making them fit for consumption.

Key observations and recommendations of the Committee include:

- **Effects on health:** India is the third largest producer of tobacco, employing 38 million people in the tobacco industry. The Committee noted that the financial benefits from the tobacco industry are negligible as compared to losses suffered in terms of deaths, and expenditure on treatment of various tobacco-related diseases. It recommended that cultivation of tobacco must be discouraged by providing farmers with incentives to shift to other crops. Further, human consumption of tobacco should be reduced, and alternative uses of tobacco may be researched upon.
- **Effects on environment:** The Committee noted that tobacco cultivation and curing is resulting in the felling of trees. It is also contributing to climate change because cutting and burning of wood for tobacco curing releases large quantities of carbon dioxide into the atmosphere. The Committee recommended that an

Environmental Impact Assessment of tobacco cultivation should be undertaken to understand the harmful effects of the same on the environment. Further, better technologies must be adopted for tobacco curing, and fuel consumption for the same may be minimised.

## Mining

*Prachee Mishra (prachee@prsindia.org)*

### Mines and Minerals (Development and Regulation) Amendment Bill, 2016 passed by Parliament

The Mines and Minerals (Development and Regulation) Amendment Bill, 2016 was passed by Parliament on May 2, 2016.<sup>10</sup> The Bill was introduced on March 15, 2016, and amends the Mines and Minerals (Development and Regulation) Act, 1957. The Act regulates the mining sector in India and specifies requirements for obtaining and granting mining leases.

Key features of the Bill include:

- **Transfer of mining leases:** The Act allows for the transfer of mining leases which have been granted through an auction process. The holder of these mining leases may transfer the lease to any eligible person, with the approval of the state government, and as specified by the central government.
- The Bill allows for the transfer of mining leases which have been granted through procedures other than auction, and where the minerals are used for captive purpose. Captive purpose has been defined as the use of the entire quantity of mineral extracted in the lessee’s own manufacturing unit. Such lease transfers will be subject to terms and conditions, and transfer charges as prescribed by the central government. These transfers will be in addition to the existing transfers that are allowed.
- **Leased area:** The Bill adds a definition of leased area, as the area within which mining operations can be undertaken. This will also include the non-mineralised area required for the activities defined under mine in the Mines Act, 1952. The 1952 Act defines mine as any excavation where any operation for searching or obtaining of minerals is being carried out. It includes (i) borings, bore wells, and oil wells, (ii) all workshops and stores within the precinct of a mine, and

(iii) any premises being used for depositing waste from a mine, or where any operations in connection with such waste are being carried out.

## Health

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### Ordinances providing for a uniform entrance examination promulgated

The Indian Medical Council (Amendment), Ordinance 2016, and the Dentists (Amendment) Ordinance, 2016 were promulgated on May 24, 2016.<sup>11,12</sup> The Ordinances amend the Indian Medical Council Act, 1956 and the Dentists Act, 1948 respectively to introduce a uniform entrance examination, with certain exceptions.

The Indian Medical Council Act, 1956 and the Dentists Act, 1948 provide for the constitution of the Medical Council of India (MCI) and the Dental Council of India (DCI) respectively. These Councils regulate: (i) permission to start colleges, courses or increase the number of seats; (ii) registration of professionals, and (iii) standards of professional conduct of these professionals, among others.

In 2013, the Supreme Court struck down the MCI and DCI regulations of 2010 and 2012, that provided for the National Eligibility-cum Entrance Test (NEET) as a single common entrance test for admission to MBBS, BDS and post-graduate courses in all government and private medical colleges.<sup>13</sup> The Court reasoned that the rights of private individuals to administer an educational institution includes the right to admit students, and requirement of NEET as the sole basis for admission to courses violates this right.

In April 2016, in a review petition on the above matter, a five judge bench of the Supreme Court recalled the 2013 judgement and reinstated the MCI and DCI regulations providing NEET as a single common entrance exam.<sup>14</sup> The Court stated that the NEET be conducted in two phases: phase I on May 1, 2016 and phase II on July 24, 2016.

To reverse this time limit imposed by the Court, the government promulgated the Ordinances. The two Ordinances provide for a uniform entrance examination for all MBBS, BDS and postgraduate courses. However, they state that

for undergraduate course admissions for the year 2016-17, the common entrance exam would not apply in states that opted out of the uniform examination. This would apply to state government seats in state government and private medical/dental colleges.

For a PRS Summary of the Ordinances, please see [here](#) and [here](#).

### Draft Medical Treatment of Terminally-ill Patients Bill released

The Ministry of Health and Family Welfare released the draft Medical Treatment of Terminally-ill Patients (Protection of Patients and Medical Practitioners) Bill on May 9, 2016.<sup>15</sup> The last date for submitting comments is June 19, 2016.<sup>16</sup> The draft Bill provides protection to patients and medical practitioners (from liability) for withdrawing medical treatment of terminally ill patients.

Key provisions of the draft Bill include:

- **Rights of a competent patient:** Every competent patient (including minors above the age of 16 years) will have the right to decide and request the medical practitioner to withhold, withdraw, or continue medical treatment in case of a terminal illness. The practitioner will act on the request if he is satisfied that the patient is competent to take an informed decision. In case of minors above 16 years, the consent of the parent and the major spouse will also be required.
- Before proceeding with the decision, the medical practitioner will be required to inform persons including the spouse, or parent, etc. of the need (or otherwise) for withdrawing treatment.
- **Protection to medical practitioners and competent patients:** If a patient suffering from terminal illness refuses medical treatment, he will not be liable for any offence under the Indian Penal Code, 1860. Without regard to provisions in any other law, in cases where a medical practitioner withdraws treatment on the request of a patient, his action will be lawful.
- **Procedure for incompetent patients:** In case of an incompetent patient (persons of unsound mind, etc.), a near relative, medical practitioner etc., can apply to the High Court for granting permission to withdraw or withhold medical treatment. The Court having considered the report of panel of

experts (providing expert medical opinion) and the wishes of the spouse, parents, etc. will grant or refuse permission (or grant permission with certain conditions).

## Home Affairs

### Anti-Hijacking Bill, 2014 passed by Parliament

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The Anti-Hijacking Bill, 2014 was passed by Parliament on May 9, 2016.<sup>17</sup> It was introduced in Rajya Sabha on December 17, 2014. The Standing Committee on Transport, Tourism and Culture had submitted its recommendations on the Bill on March 3, 2015.<sup>18</sup> The Bill was passed with amendments incorporating some of the recommendations of the Standing Committee.

The Bill repeals the Anti-Hijacking Act, 1982 to give effect to the Beijing Protocol, 2010. The Protocol regulates the scope of hijacking, exercise of jurisdiction by countries, and extradition in these matters. Key features of the Bill include:

- **Definition of hijacking:** Hijacking is defined as seizing control of an aircraft in service by technological means, or through force, or intimidation. An aircraft is considered to be in service from the time it is being prepared for a specific flight until 24 hours after landing. The Bill also declares related acts to be hijacking, such as: (i) attempt and abetment, and (ii) threatening to hijack.
- **Punishment:** The Bill provides for: (i) capital punishment, where the offence results in death of any person, and (ii) life imprisonment in all other cases. It also allows for moveable and immoveable property of the accused to be confiscated.
- **Jurisdiction of Indian courts:** The Bill allows courts to exercise jurisdiction on several grounds, including where the offence is committed: (i) in India, (ii) against an aircraft registered in India, (iii) by or against an Indian citizen, etc.
- **Presumption of guilt:** The Bill allows for the accused to be presumed guilty if the prosecution establishes either: (i) arms,

ammunition or explosives were recovered from the accused similar to the ones used in the hijacking, or (ii) there is evidence of use of intimidation against crew or passengers in connection with the hijacking.

For more details on the Bill, see the PRS Summary [here](#). For a comparison of the Bill as passed with Standing Committee recommendations, see [here](#).

### Select Committee submits report on the Enemy Property Amendment Bill, 2016

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The Select Committee of Rajya Sabha (Chairperson: Mr. Bhupender Yadav) submitted its report on the Enemy Property (Amendment and Validation) Bill, 2016 on May 6, 2016.<sup>19</sup> The Bill was referred to the Committee on March 15, 2016. The Bill seeks to amend the Enemy Property Act, 1968.

The central government had designated some properties belonging to nationals of Pakistan and China as ‘enemy property’ during the 1962, 1965, and 1971 conflicts. It vested these properties in the Custodian of Enemy Property, an office of the central government. The 1968 Act regulates these enemy properties.

The Bill seeks to amend the Act retrospectively from 1968 to expand the powers of the Custodian. The Committee recommended that the Bill be passed with a few amendments.

Key recommendations include:

- **Review of vesting by central government:** The Bill states that a person may apply to the central government against an order that vests a property, that is not enemy property, in the Custodian. It specifies that the person must apply within 30 days from the date of receiving the order. The Committee recommended that 30 days be counted from: (i) date of receipt of order, or (ii) date of its publication in the Official Gazette, whichever is earlier.
- **Bar against jurisdiction:** The Bill seeks to bar civil courts and other authorities from entertaining disputes against enemy property. The Committee recommended that a provision be added allowing a person aggrieved by an order of the central government to appeal to the High Court, regarding whether a property is enemy

property. Such an appeal will have to be filed within 60 days (extendable up to 120).

Six members of the Committee submitted dissent notes with regard to recommendations of the Committee. They recommended several amendments to the Bill. These include: (i) amending the Bill to allow Indian citizens, who are legal heirs, to inherit enemy property, (ii) removing the provision that grants the Custodian title over enemy property, and (iii) re-instating the right of the enemy to transfer enemy property

For more details, see the PRS analysis [here](#), and the PRS Summary of the Select Committee Report [here](#).

### Draft Geospatial Information Regulation Bill, 2016 released

*Prianka Rao (prianka@prsindia.org)*

The Ministry of Home Affairs released the Draft Geospatial Information Regulation Bill, 2016 on May 4, 2016.<sup>20</sup> The Bill seeks to regulate the acquiring, disseminating, publication and distribution of geo spatial information in the interest of national security. Salient features of the draft Bill include:

- **Applicability:** It will extend to the whole of India. It will also apply to Indian citizens and government servants who are abroad, and all persons on ships and aircrafts that are registered in India.
- **Definition of geospatial information:** Geospatial information includes: (i) geospatial imagery; or (ii) data that is captured either from space or aerial platforms (like satellites and aircrafts). It also covers graphical or digital data of the earth (like maps and terrestrial photos).
- **Acquisition and publication of geospatial information:** All persons will be prohibited from acquiring or publishing geospatial information in India. However, such information may be acquired or published under certain circumstances specified in the draft Bill or rules under it, or with the permission of the Security Vetting Authority. This Authority will be chaired by an officer at least of the rank of Joint Secretary, and will have two other members (technical and national security experts).
- **Apex Committee:** The Apex Committee will be constituted by the Ministry of Home Affairs to: (i) oversee the implementation of

the Act; (ii) make regulations; and (iii) prescribe fees and guidelines for licensing of geospatial information.

- **Penalties:** If a person acquires or publishes any geospatial information in violation of the provisions of the Bill, the maximum punishment would be a fine up to Rs 100 crore and up to seven years' imprisonment.

The Ministry is accepting public comments on the draft Bill until June 3, 2016.

## Education

### Rajendra Central Agricultural University Bill, 2015 passed by Parliament

*Tanvi Deshpande (tanvi@prsindia.org)*

The Rajendra Central Agricultural University Bill, 2015 was passed by Parliament on May 11, 2016.<sup>21</sup> The Bill replaces the Bihar Agricultural University Act, 1987. It converts the existing Rajendra Agricultural University at Pusa, Bihar into the Rajendra Central Agricultural University, and declares it as an institute of national importance.

The new University will aim to (i) undertake research in agriculture and allied sciences, (ii) hold examinations and grant degrees, diplomas and other titles, and (iii) collaborate with other universities and institutions, among other things.

The Bill specifies the officers who will be in charge of the administration and academic affairs of the University. It also specifies the composition of the selection committee which will give recommendations regarding the appointment of these officers.

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

### Cabinet gives approval for incorporation of six new IITs

*Roopal Suhag (roopal@prsindia.org)*

The Union Cabinet on May 25, 2016, approved an amendment to the Institutes of Technology Act, 1961 for incorporating six new Indian Institutes of Technology (IITs) with retrospective effect.<sup>22</sup> The Cabinet had given its approval for setting up these six IITs in December 2015.<sup>23</sup> They were initially formed as societies under the Societies Registration Act, 1860. These IITs will be situated at Tirupati,

Andhra Pradesh; Palakkad, Kerala; Dharwar, Karnataka; Bhilai, Chhattisgarh; Goa; and Jammu, Jammu & Kashmir. This brings the total number of IITs in the country to 23.

The amendment also provides for the conversion of Indian School of Mines, Dhanbad to an IIT.

## Commerce and Industry

*Tanvi Deshpande (tanvi@prsindia.org)*

### The National Capital Goods Policy, 2016 approved by Cabinet

The Union Cabinet approved the National Capital Goods Policy, 2016 on May 25, 2016.<sup>24</sup> Earlier, a draft Policy had been circulated by the Ministry of Commerce and Industry in October 2015. The Policy contains recommendations and policy actions to address challenges faced by the capital goods sector in the country.

Capital goods consist of plant machinery, equipment, and other accessories required for the manufacturing and production of goods or provision of services.

The Policy objectives include: (i) increasing the total production of the capital goods sector, (ii) increasing domestic employment in the sector, (iii) increasing the domestic market share, and the share of exports in total production, (iv) improving skill availability and use of technology, and (v) promoting small and medium enterprises.

Key policy actions and recommendations include:

- **Increasing competitiveness of the sector:** To develop a globally competitive capital goods sector by: (i) developing a stable and rationalised tax and duty structure, and (ii) creating a start-up centre with pre-incubation, management, services, and financial guidance.
- **Export of capital goods:** To promote Indian exports in the capital goods sector by (i) initiating trade agreements with countries where India has good export potential, (ii) purchasing equipment in Indian rupees and negotiating trade agreements with countries where our imports are higher than exports.
- **Use of technology:** To increase the depth of technology use in the sector by: (i)

incentivising foreign direct investment in high technology manufacturing by increasing the investment allowance from 15% to 25% over five years, (ii) setting up an insurance fund and developing a product to cover the risk of the failure of locally developed technology.

- **Small and medium enterprises (SME):** To promote SMEs by (i) developing supplier clusters and manufacturing clusters for SMEs around large manufacturers, (ii) providing schemes for cluster development including forming an SPV, and establishing common R&D, product development, and design and testing facilities in these clusters.
- **Other recommendations:** Other policy actions recommended by the Policy include (i) undertaking human resource development by promoting the existing training institutes of skill development and establishing linkages with local special economic zones and industry chambers to develop skilling clusters, and (ii) evolving current standards for capital goods, to bring them up to par with the global benchmarks of performance.

## Food and Public Distribution

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### CAG submits report on implementation of National Food Security Act, 2013

The Comptroller and Auditor General of India (CAG) submitted a report on the 'Preparedness for Implementation of the National Food Security Act (NFSA), 2013' on April 29, 2016. The objective of the audit included assessing the process of identification of beneficiaries, undertaking reforms for the targeted public distribution system (TPDS), and setting up grievance redressal and monitoring mechanisms by the states. Nine states were selected by CAG for the purpose of this audit: Assam, Bihar, Chhattisgarh, Delhi, Goa, Jharkhand, Karnataka, Maharashtra and Uttar Pradesh. Key findings of the audit report include:

- **Identification of eligible beneficiaries:** The CAG observed that since the NFSA was enacted in 2013, only 18 states/UTs have implemented it. Only 51% of the eligible beneficiaries in the country have been

identified. Under the NFSA, respective states have to notify guidelines for identifying priority households of beneficiaries. However, it was found that most states, including Bihar, Himachal Pradesh, Karnataka and Maharashtra, had simply re-stamped old ration cards (under TPDS) as NFSA compliant without conducting a fresh identification of beneficiaries as per provisions of the Act.

- **Infrastructure and logistics:** It was observed that states were largely unprepared to handle the logistics of storage and movement of food grains under the NFSA. The CAG noted that 95% of the food grains in the country are transported by Railways. After NFSA is implemented, the quantity of food grains from producer states to consumer states is expected to increase, indicating a higher requirement of rakes (group of freight wagons) from the Railways. 20% more rakes would be required for this purpose. However, from 2010-11 to 2014-15, the availability of rakes has been falling short of their requirement every year, with a shortfall between 13% and 18%.
- It was found that the available storage capacity in states was inadequate for the allocated quantity of food grains. In Maharashtra, of the 233 godowns sanctioned for construction, only 93 had been completed. The conditions of the godowns constructed in Assam and Jharkhand were found to be unfit, either because of their damaged conditions (too damp) or because of their remote locations.
- **Grievance redressal and monitoring mechanisms:** The NFSA states that every state must have an internal grievance redressal and monitoring system, such as a toll free helpline, and Vigilance Committees at the state, district, block, and fair price shop levels.
- All nine states selected by CAG had set up an internal grievance mechanism of a toll free number. In terms of monitoring, state level Vigilance Committees were set up in six out of nine states.

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

## Agriculture

*Tanvi Deshpande (tanvi@prsindia.org)*

### Ministry releases draft guidelines for GM Technology Agreements

The Ministry of Agriculture released draft guidelines for genetically modified (GM) technology agreements for cotton seeds on May 24, 2016.<sup>25</sup> The guidelines provide the format for technology agreements between a company or person with the patents for the GM trait (licensor), and cotton seed companies which want to use this trait (licensee). They also specify the royalty amount to be paid to the GM company by the cotton seed companies. The Ministry has asked for comments on the draft guidelines within 90 days of their release.

Key features of the draft guidelines include:

- **Obtaining license to use GM trait:** Any eligible cotton seed company which meets the prerequisites set by the government will have to be issued a license. The license will be deemed to be given to the cotton seed company within 30 days of submitting a license request. This implies that licensors can no longer choose the seed companies to which they provide licenses.
- **Technology agreement format:** The GM Technology Agreement will be in the approved license format as specified in the guidelines. All the existing GM license agreements in any other format, which deal with the production and sale of GM cotton seeds, will be invalid and inoperative after these guidelines are published. They will have to be re-executed as per the new format within 30 days.
- **Royalty amount:** For a new GM trait which is commercialised after these guidelines, the royalty amount (GM trait value) for the first five years may be up to 10% of the maximum sale price of GM cotton seeds, as fixed by the central government. After the first five years, the royalty amount will be decreased by 10% every year.
- **Upfront fee:** GM traits which are commercialised after these guidelines will be subject to an upfront fee of up to Rs 25 lakh. GM technology agreements which were executed before these guidelines and

were charged with an upfront fee, will not be charged again.

### 3<sup>rd</sup> advance estimates of production of food grains, and projection for 2016-17 released

The third advance estimates of production of food grains in 2015-16 were released by the Ministry of Agriculture on May 9, 2016.<sup>26</sup> The production of total food grains is estimated to be 0.1% higher than the final estimates of production in 2014-15. While the estimates of production of wheat and gram are higher than the final estimates of 2014-15, those of rice, pulses, oilseeds (except mustard and rapeseed), cotton and sugarcane are lower.

**Table 2: Third Advance Estimates of major crops in 2015-16 (in million tonnes)**

Crop	Final estimates of 2014-15	3rd advance estimates of 2015-16	% change
Foodgrains	252.0	252.2	0.1%
Rice	105.5	103.4	-2.0%
Wheat	86.5	94.0	8.7%
Coarse cereals	42.9	37.8	-11.9%
Maize	24.2	21.0	-13.0%
Pulses	17.2	17.1	-0.5%
Tur	2.8	2.6	-7.5%
Gram	7.3	7.5	2.0%
Oilseeds	27.5	25.9	-5.9%
Soyabean	10.4	8.9	-14.0%
Groundnut	7.4	6.9	-7.0%
Rapeseed and mustard	6.3	6.9	9.1%
Cotton*	34.8	30.5	-12.3%
Sugarcane	362.3	346.7	-4.3%

\* millions of bales of 170 kgs each.

Sources: Directorate of Economics and Statistics; PRS.

The Ministry also released the projection of food grains production in 2016-17, on May 23, 2016.<sup>27</sup> The projected level of production for food grains in 2016-17 is 270.1 million tonnes, 7.1% higher than the 3<sup>rd</sup> advance estimates of 2015-16.

## Transport

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

### CAG submits audit report on Railways finances for 2014-15

The Comptroller and Auditor General of India submitted its audit report on Railways finances for the year 2014-15 on April 29, 2016.<sup>28</sup> Key observations and recommendations include:

- During 2014-15, total revenue receipts increased by 12.43%, which was below the CAGR of 13.99% during the period 2010-14. Freight earnings grew by 12.66% in 2014-15, lower than the CAGR of 14.32% during 2010-14. Passenger earnings grew by 15.49% in 2014-15, higher than the CAGR of 12.30% during 2010-14.
- Railways could not meet the operational cost of running passenger and other coaching services in 2014-15. 97.2% of the profit from freight traffic was utilized to compensate the losses incurred on passenger and other coaching services. The report recommended that the Ministry of Railways should revisit passenger and other coaching tariffs to recover the cost of operations.
- Railways introduces new works on an 'out of turn' basis outside the regular budget cycle through the supplementary demands for grants. These new works are assigned on safety and operational efficiency considerations. The audit observed that Railways could not take advantage of the time gained by introducing these works before the regular budget cycle. The audit reviewed 443 works that were taken up through supplementary demands for grants. Of those, about 254 could not be completed even after one to five years of their approval by Parliament.
- It recommended that the Ministry should strengthen the process of budgetary estimation. This would ensure that the supplementary demands for grants do not remain unutilised or fall short of the requirement. Defects in the budgeting system should be analysed and measures taken to avoid recurrence in future.
- The Ministry should also strengthen its mechanism of selecting projects, and the monitoring of such projects at every stage. Monitoring may be done at the time of

preparation of detailed estimate, tendering process, etc.

### **Expert Committee on Best Practices in Road Construction submits its report**

The Expert Committee on Best Practices in Road Construction (Chair: Mr. S. R. Tambe) submitted its report in May 2016.<sup>29</sup> The Ministry of Road Transport and Highways had appointed the Committee on May 25, 2015. The Committee was to give recommendations regarding the best practices and technologies for road construction in India after studying the technologies being used in developed countries. Further, it was to recommend changes in the codes and specifications regarding road construction. Key recommendations of the Committee include:

- Contractors should have complete liberty to design the projects within the limits set in the concession agreements, and standard specifications. Further, a standing panel of experts should be constituted at the national level to expedite approvals to the proposals of using innovative technologies, or materials, etc.
- The current approach of least cost method of selection of contractors should be changed to a quality and cost based selection method.
- The Committee observed that sometimes officials are penalised for wrong decisions without drawing the distinction of whether the decision was bona fide or mala fide. This tends to create a system which is averse to speedy decisions. It recommended that existing vigilance procedures should be amended to ensure that bona fide interests of projects are protected. Further, performance assessment of officials implementing the projects should be carried out.
- Drafting of the Indian Road Congress (IRC) codes should be assigned to experienced consultants on payment basis as practised in several advanced countries. Further, funding to the IRC should be increased.
- The approval of environmental clearances should be expedited and a well-defined policy toward cutting of trees and transfer of government lands should be evolved. More powers (such as placement of funds) should be delegated to the local project officials to enable them take decisions regarding land acquisition payments, etc.

### **Ministry of Road Transport and Highways sets up a Committee to frame policy for taxi operators**

The Ministry of Road Transport and Highways constituted a three member Committee to prepare a policy framework for taxi and other transport operators on May 10, 2016.<sup>30</sup> The Committee will be headed by the Secretary, Ministry of Road Transport and Highways. Other members will be the Joint Secretary, Ministry of Road Transport and Highways, and the Delhi Transport Commissioner.

In December 2015, the Supreme Court had ordered that the registration of all private diesel cars in Delhi, with capacity above 2,000 cc, will stand banned till March 31, 2016.<sup>31</sup> Further, it ordered that all taxis in Delhi (including the mobile based aggregator ones), should move to compressed natural gas (CNG) by April 30, 2016.<sup>32</sup> According to news reports, on May 10, 2016, the Court revised its order allowing diesel taxis with existing all India permits, to ply in the National Capital Region till their permit expires.<sup>33,34</sup> (A copy of the court order is not available.)

The Committee will look into these issues and come up with appropriate policy recommendations to address the same in a time bound manner.

### **Ministry of Shipping puts on hold the policy of dollar linked coastal tariff**

In September 2015, the Ministry of Shipping had amended the coastal concession policy with regard to the restatement (revision) of rates for coastal (domestic) vessels.<sup>35</sup> The amendments provided that the restatement of rates of coastal vessels should take into account the fluctuations in the exchange rate between Indian Rupee and the US dollar. This would ensure that coastal vessel related charges do not exceed 60% of corresponding charges for foreign vessels.

However, the Traffic Authority for Major Ports (TAMP) observed that this policy could result in an increase in the rates of coastal vessels for certain ports.<sup>36</sup> Further, it observed that transactions in coastal shipping are entirely domestic, and the tariff is collected in Indian Rupee. It recommended that the policy of linking tariff to US Dollar and exchange rate fluctuations should be reviewed to ensure that coastal shipping is not adversely affected.

In light of these, on May 16, 2016, the Ministry of Shipping put this policy on hold till these issues are addressed.<sup>35</sup> Further, the Ministry has directed TAMP to prescribe coastal cargo and container rates for all major port trusts and private operators.

### Concept note on voluntary vehicle fleet modernization programme released

The Ministry of Road Transport and Highways released a concept note on voluntary vehicle fleet modernization programme on May 26, 2016.<sup>37</sup> The Ministry is seeking comments on the note till June 9, 2016.

Under the programme, vehicle owners are expected to replace their old vehicles (bought on or before March 31, 2005) with new ones. About 28 million vehicles are expected to be replaced through this programme. Impacts expected from the programme include: (i) 25%-30% reduction in air pollutants, (ii) lower oil consumption leading to oil import savings of about Rs 7,000 crore, and (iii) domestic generation of steel scrap worth Rs 11,500 crore every year.

Vehicle owners replacing their vehicles through this programme will get monetary incentives in three forms: (i) partial exemption from excise duty (subject to approval from Ministry of Finance), (ii) special discounts from automobile manufacturers (subject to acceptance by the automobile manufacturers), and (iii) scrap value from the old vehicle. These benefits would amount to about 8%-12% of the vehicle cost.

In order to implement the programme, an IT system will have to be designed to enable the end-to-end process management of the programme. In addition, recycling and shredding centres will have to be set up. These centres will have to follow the 'Guidelines for Environmentally Sound Management of End-of-Life Vehicles' published by the Ministry of Environment, Forests and Climate Change.<sup>38</sup> The guidelines include details on (i) depollution of vehicles (removal of hazardous substances), (ii) dismantling of the vehicles, and (iii) processing of the residues.

## Energy

*Dipesh Suvarna (dipesh@prsindia.org)*

### Cabinet approves flexibility in utilisation of domestic coal

The Union Cabinet approved flexibility in utilisation of domestic coal for reducing the cost of power generation.<sup>39</sup> The Cabinet approval provides for flexibility in the use of coal between generating plants of state owned utilities, company owning central generating stations, and independent power producers. This flexibility is expected to provide for cost optimisation in coal transportation.

The approval provides for clubbing of coal linkages of individual state generating stations and central generating stations. The clubbed coal linkages of the state generating station will be assigned to the respective state nominated agency. Similarly, in the case of individual central generating station they will assigned to the company owning the stations. This will be done to enable efficient coal utilisation among end use generating stations.

For the use of coal by state and central generating plants, the deciding criteria will be plant efficiency, coal transportation cost, and overall cost of power, among others. In case of coal assigned to the state in private generating stations, the electricity procurement through the substituted coal will be done on a bidding basis. This will be carried out amongst competing private sector plants. In this case, the information regarding the source of the coal, quantum of power, and delivery point for receiving electricity will be mentioned upfront.

The Central Electricity Authority (through stakeholder consultation) will issue the methodology for the implementation of the usage of assigned coal to states in their own generating stations, etc.

## Petroleum and Natural Gas

*Dipesh Suvarna (dipesh@prsindia.org)*

### Standing Committee submits report on the functioning of Directorate General of Hydrocarbons

The Standing Committee on Petroleum and Natural Gas submitted its report on the

functioning of the Directorate General of Hydrocarbons (DGH) on May 6, 2016.<sup>40</sup> Key recommendations of the Committee include:

- **Regulator:** The Committee was of the view that with both public and private sector participation in the hydrocarbon sector, it is necessary to have an independent regulator. Currently the upstream sector (searching, exploration, and the production of oil) does not have a regulator. The Petroleum and Natural Gas Board (PNGRB) (under the Ministry of Petroleum and Natural Gas) regulates a small part of the downstream sector (refining, marketing, and distribution of petroleum products). Therefore, the Ministry must vest the regulatory functions performed by the DGH with the PNGRB. The PNGRB can be regulator for both the upstream and downstream sector.
- **Appeal provision:** It has been observed that there have been multiple disputes with regard to execution of production sharing contracts (contracts between a contractor and the government regarding production of petroleum). In the absence of an appellate authority, the disputes against the DGH have to be appealed before Courts. This leads to delay in exploration activities, etc. An adjudicatory authority must be set up through consultation to hear review of orders passed by the DGH.
- **Reassessment and alternate fuels:** The last assessment of hydrocarbon resource bases for fifteen sedimentary basins (and deep water areas) was carried out more than twenty years ago. The government has initiated some projects with regard to this. The appraisal of unapprised areas (areas not identified for discovery) must be completed under a fixed timeline. Considering the stagnant domestic production of hydrocarbons, a multi-organisational team must be set up to review the exploration activities carried out by upstream Public Sector Undertakings. Progress made in exploitation of alternate energy resources (such as shale gas) has been very slow. Due attention must be given to programmes relating to alternate energy sources.

## Women & Child Development

### Draft Model Rules, 2016 released for Juvenile Justice Act, 2015

*Tanvi Deshpande (tanvi@prsindia.org)*

The Ministry of Women and Child Development released Draft Model Rules, 2016 for the Juvenile Justice Act, 2015 on May 25, 2016.<sup>41</sup> The Act came into force in January 2016, and specifies procedures to deal with children in conflict with law and those in need of care and protection. The Ministry has invited comments on the draft Rules until June 9, 2016.

Key features of the Rules include:

- **Apprehension of children:** The Act specifies the procedure to be undertaken when a child is alleged to be in conflict with law. The draft Rules provide that a child will be arrested only with regard to heinous offences (imprisonment more than 7 years). For serious or petty offences (imprisonment less than 7 years), the specified authorities will submit a report of the offence and the socio-economic background of the child to the Juvenile Justice Board (JJB) and inform his parents or guardians as to when the child is to be produced before the Board.
- **Treatment of arrested child:** The police officer who arrests the child is not permitted to (i) send the child to a lock-up or jail or keep him with adults who are accused of offences, (ii) hand-cuff or chain the child, (iii) ask the child to sign any statement, and (iv) subject the child to cruelty or use coercion on the child.
- **Determination of age:** Under the Act, the age of a child who is alleged to have committed a heinous offence is to be determined to ensure that he is above 16 years of age. The draft Rules state that all government hospitals will constitute a Medical Board comprising of a radiologist, dentist, and a general physician, for the purpose of determining the age of children. In cases where the Medical Board gives a range of the child's age, the Court or the JJB will consider the lower limit.
- **Preliminary assessment:** The Act states that in case of a child who is alleged to have committed a heinous offence, a preliminary assessment must be conducted to determine the mental and physical capacity of the child

to commit such an offence. The draft Rules state that the JJB may take the assistance of psychologists or other experts for this purpose. During the assessment, the child will be presumed to be innocent unless it is proved otherwise.

- **Other provisions:** The draft Rules also provide for (i) the composition and powers of the Juvenile Justice Boards and Child Welfare Committees, (ii) duties of the officers provided by the Act, such as the probation officer, the child welfare officer and superintendent of a child care institution, (iii) details of the after-care programme for children after they turn 18 years old, and (iv) the procedures to be undertaken for foster care, adoption, and in cases where an offence is committed against a child, among other things.

**Draft Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2016 released**

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The Ministry of Women & Child Development released the draft Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2016 on May 30, 2016.<sup>42</sup> The Bill sets up anti-trafficking bodies at three levels to prevent trafficking and rehabilitate victims and creates penalties if provisions of the Act are not complied with. Key features of the draft Bill include:<sup>43</sup>

- **Anti-Trafficking bodies:** Anti-Trafficking bodies will be constituted at the district, state and central level. District Anti-Trafficking Committee will perform duties in relation to prevention of trafficking and rescue and rehabilitation of victims. It will be headed by a district magistrate or district collector and will consist of five members. Anti-Trafficking bodies at the state and central level will oversee the implementation of the Act. The state Anti-Trafficking Committee will be headed by the chief secretary and will have nine members.
- **Protection and Rehabilitation:** Protection homes in every district will provide immediate care and protection to victims, in the form of shelter, food and medical care. For long-term institutional support, special homes will be set up. Both, protection and

special homes will be required to be registered under the Act. Schemes for social integration of trafficked persons will be formulated by the government. An anti-trafficking fund will also be created for the effective implementation of the Act.

- **Offences:** Use of narcotic drug or alcohol for the purpose of trafficking and administering a chemical substance or hormones to a trafficked woman is punishable with imprisonment up to 10 years. Additionally, if a person commits either of these two offences, it will be presumed that such a person has committed the offence, unless proved otherwise. Penalties have also been defined when the identity of a victim is disclosed by any print or audio-visual media, and protection and shelter homes are not registered.
- **Investigation and prosecution:** A special agency will be constituted for investigation of offences. A Session’s Court in each district will be specified as a Special Court.

Comments are invited on the draft Bill till June 30, 2016.

**Draft National Policy for Women, 2016 released for consultation**

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The draft National Policy for Women, 2016, was released by the Ministry of Women & Child Development on May 17, 2016 for consultation.<sup>44</sup> The Policy seeks to create an effective framework for developing policies and practices which will ensure equal rights and opportunities for women.<sup>45</sup> It covers seven priority areas, including: (i) health, including food security and nutrition, (ii) education, (iii) economy, (iv) governance and decision making, (v) violence against women, (vi) enabling environment through housing, drinking water, sanitation facilities and social security, and (vii) environment and climate change.

The Policy aims to address emerging issues that affect women by taking steps such as:

- Preparing family-friendly policies, which provide for childcare, dependent care, and paid leave for women and men, both in organized and unorganized sectors.
- Reviewing personal and customary laws in accordance with Constitutional provisions to

- enable equitable and inclusive entitlements for women.
- Developing protective measures in light of an increase in cyber-crimes as victims of such frauds are largely women.
- Ensuring the rights of women who take the recourse of artificial reproductive techniques, such as surrogate mothers, commissioning mothers and children born as a result are protected.
- Creating an ecosystem for women to participate in entrepreneurial activities and take up decision-making and leadership roles in all sectors of the economy.

The Policy will be translated into an action plan through a participatory approach and will be adopted at the central and state level. There will be short term (one-year), mid-term (zero-five years) and long term (above five years) action plans with definite timelines and outcomes.

Suggestions on the draft Policy are invited till June 20, 2016.

## Rural Development

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### CAG submits report on MGNREGS Social Audit Rules, 2011

The Comptroller and Auditor General (CAG) of India submitted its report on Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) Social Audit Rules, 2011 on April 29, 2016.<sup>46</sup> The Rules were notified in 2011 to ensure optimum utilisation of funds and measure the implementation of the scheme.<sup>47</sup> The CAG audit covers social audit evaluation conducted by 25 states during 2014-15.

The key findings and recommendations of the audit include:

- Social Audit Units (SAUs), to plan and conduct social audit of the scheme had not been set up in seven states, namely, Arunachal Pradesh, Goa, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala and Uttarakhand. The CAG recommended that state governments should be required to establish an independent SAU within a time frame fixed by the Ministry of Rural Development.

- Shortage of resource persons to carry out social audits has been observed. In 14 states with independent SAUs, shortage of 22% state resource persons, 24% district resource persons, and 57% block resource persons was seen. The CAG recommended that state governments should ensure availability of adequately trained personal at all levels.
- Majority of states have not prepared an annual calendar to conduct social audit. CAG recommended that state governments should take effective steps to ensure the preparation of an annual calendar and monitor its implementation.
- Only 51% of the gram panchayats were covered for social audit across the 25 states. Instances of non-convening of gram sabha meetings, no discussion on social audit findings were also observed. Ensuring verification of project sites by social audit team and conducting door to door visits in compliance with the provisions of the rules was recommended.

## Urban Development

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### 13 more Smart Cities announced in the fast track competition

The Ministry of Urban Development announced 13 Smart Cities on May 24, 2016.<sup>48</sup> In January 2016, 20 cities had been declared as winners of the Smart City Challenge competition.<sup>49</sup> These cities were selected from 98 cities that had been nominated by their respective states and union territories (UTs) in the first stage of the competition in August 2015.<sup>50</sup>

The 23 states and UTs that could not make it to the list of winners in the first round were given an opportunity to participate in a ‘fast track competition’. Each top ranking city from these states could upgrade their smart city proposal and submit it by April 15, 2016. The cities that participated in the competition improved the quality of their smart city plans by up to 25% to become eligible for selection.

The 13 cities are: Lucknow, Uttar Pradesh; Warangal, Telangana; Shimla, Himachal Pradesh; Chandigarh; Raipur, Chattisgarh; New Town Kolkata, West Bengal; Bhagalpur, Bihar; Panaji, Goa; Port Blair, Andaman and Nicobar

Islands; Imphal, Manipur; Ranchi, Jharkhand; Agartala, Tripura; and Faridabad, Haryana. With the selection of these 13 cities, 25 states/UTs are now covered under the Smart Cities Mission.

## Water Resources

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### Estimates Committee submits report on Ganga rejuvenation

The Committee on Estimates submitted its report on Ganga rejuvenation on May 11, 2016.<sup>51</sup> In 2014, the government had constituted an Integrated Ganga Conservation Mission, ‘Namami Gange’, to: (i) reduce pollutants entering into Ganga, (ii) upgrade the existing Sewage Treatment Plants (STPs) and create additional treatment capacity, and (iii) diverge drains directly falling into the river. The Mission was approved in May 2015 with a budget of Rs 20,000 crore for five years.

Key observations and recommendations of the Committee include:

- **Empowered authority:** The Committee noted that the estimated sewage generation in 11 states is 12,051 million litres per day (MLD). In comparison, the available treatment capacity is 5,717 MLD. In addition, there are 764 polluting industries, such as tanneries, paper, textiles, etc., that generate 501 MLD of waste water, most of which flows into the Ganga untreated. In light of the multiplicity of authorities at the centre and state level, and lack of synergy between the stakeholders, the Committee recommended that an overarching and empowered authority, comprising of the representatives of all concerned ministries and state governments should be set up.
- **Consultation with states:** The Committee recommended that the views of state governments should be taken into consideration before deciding on the mode of execution of a sewage treatment project. For example, the Committee noted that Uttar Pradesh is not in favour of execution of sewage projects in PPP mode.
- **Cost escalation in setting up STPs:** The Committee noted that due to delays and the resultant cost escalation, some states facing

financial stress may not be able to complete their STP projects. It recommended that the Ministry of Water Recourses should treat these uncompleted projects as new initiatives and fund them entirely.

- **Lack of resources:** The Committee observed that technical and scientific posts were vacant in the Central and State Pollution Control Boards. It recommended revising the pay and perks for technical personnel to attract the right talent.
- **Legislative framework:** The Committee recommended that the Ministry of Water Resources should take appropriate action in order to put a comprehensive legislative framework in place for integrated river basin management.

## Law and Justice

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### Cabinet approves amendments to the Constitution (Scheduled Tribes) Order

The Union Cabinet approved the introduction of two Bills related to amendments to the Constitution (Scheduled Tribes) Order 1950 on May 25, 2016.<sup>52</sup> The amendments seek to modify the list of Scheduled Tribes (STs) in five states: Chhattisgarh, Jharkhand, Tamil Nadu, Tripura and identify new communities in the Union Territory of Puducherry. The communities added to the list of STs in the Schedule to the 1950 Order include:

- **Assam:** Members of the i) Boro, Boro Kachari, Bodo, Bodo Kachari; and ii) Karbi (Mikir) communities.
- **Chattisgarh:** Members of the i) Bhuinya, Bhuiyan, Bhuyan; ii) Dhanuhar or Dhanuwar; iii) Kisan; iv) Saunra, Saonra; and v) Dhangad communities.
- **Jharkhand:** Members of i) Bhogta, Deshwari, Ganjhu, Dautalbandi (Dwalbandi), Patbandi, Raut, Maajhia, Khairi (Kheri) and ii) Puran communities.
- **Tamil Nadu:** Members of i) Malayali Gounder; and ii) Narikoravan, Kurivikkarar communities.
- **Tripura:** Members of the Darlong community.

- **Puducherry:** Members of Irular (including Villi and Vettaikaran) communities have been identified.

Note that a Bill that modified the list of Scheduled Castes in the states of Haryana, Kerala, Chattisgarh, West Bengal and Orissa was passed by Parliament on April 28, 2016.<sup>53</sup>

### Standing Committee submits report on the tribal justice system

The Standing Committee on Personnel, Public Grievances, Law and Justice submitted its report on the ‘Synergy between tribal justice system and the regular justice system of the country’ on March 10, 2016.<sup>54</sup> The Constitution permits north eastern states to set up customary village councils or courts to resolve disputes between two parties belonging to a Scheduled Tribe. This tribal justice system involves the interpretation of uncodified customary laws by the village chiefs, assisted by elders of a village.

Salient observations and recommendations of the Committee include:

- **Functioning of the tribal justice system:** The Committee noted that most tribal communities preferred the tribal justice system because of: (i) their familiarity with customary laws; (ii) its minimal procedure and cost effectiveness; and (iii) timely delivery of justice.
- However, there were certain challenges: (i) every tribe within a state had its own customary practices of dispute resolution, (ii) most of the judicial decisions were not written down, and gave the tribal chief wide discretion. As a result, punishments for the same crime vary from person to person.
- **Statutory recognition to tribal courts:** The Committee recommended that Parliament enact a law to set up a tribal justice court system. States would be permitted to modify the law as per their requirements. This would give the tribal courts institutional framework, in relation to appointment of personnel, salary and benefits, etc. Further, this would enable them to codify their customs, write judgments and orders, and follow laws and precedents. To facilitate this, special funds may be allocated to state judicial academies and village mobile courts.
- **Separate high courts for north eastern states:** In its earlier report, in 2008, the

Committee had recommended that separate high courts be established in the north eastern states. The Committee reiterated this recommendation, as these high courts could play a role in the codification of tribal laws. The judgements of the high courts will be treated as precedent, and its interpretations of customary law could be documented. The Committee also recommended that independent judicial academies be established in every state.

A PRS Summary of the report is available [here](#).

### Government releases National IPR Policy

The Department of Industrial Policy & Promotion (DIPP) released a National Intellectual Property Rights (IPR) Policy on May 12, 2016.<sup>55</sup> The policy lays down seven objectives, related to IPR: (i) awareness; (ii) generation; (iii) legislative framework; (iv) administration and management; (v) commercialisation; (vi) enforcement and adjudication; and (vii) development of human capital. Together, this included taking the following steps:

- Launching a nationwide promotion to improve awareness of IPR, with a focus on industry and R&D entities.
- Carrying out an IP audit across sectors to identify the potential in specific sectors, and formulating targeted programmes for them.
- Protecting India’s traditional medicinal knowledge from misappropriation, and evolving a policy in relation to trade secrets. Existing IP laws must be amended to ensure transparency and time bound processes.
- The administration of laws like the Copyright Act, 1957 and the Semiconductor Integrated Circuits Layout Design Act, 2000 is to be brought under the DIPP. A cell for the promotion and management of IPR must be constituted.
- Enforcement agencies at various levels must be strengthened, including IPR cells in state police forces. IP disputes must be settled through alternate dispute resolution, or adjudicated through commercial courts.

## Telecom

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### Supreme Court strikes down TRAI's amendment mandating service providers to compensate consumers for call drops

The Supreme Court struck down an amendment to the Telecom Consumers Protection Regulations, 2012, which was issued by the Telecom Regulatory Authority of India (TRAI), on May 11, 2016.<sup>56</sup> The amendment, issued in October 2015, mandated mobile service providers to provide compensation to consumers for call drops. Call drops represent the service provider's inability to maintain a call once it has been correctly established. Therefore, these are calls dropped or interrupted prior to their normal completion by the user.

The Supreme Court examined whether the amendment was arbitrary and unreasonable, and in violation of Article 14 and Article 19(1)(g) of the Constitution. Article 14 guarantees right to equality, and Article 19(1)(g) guarantees freedom to practise any profession.

The Court held that the amendment was arbitrary and unreasonable, and in violation of Articles 14 and 19(1)(g). It observed that cause for call drops could be twofold: owing to the fault of the consumer or owing to the fault of the service provider. However, the amendment made the service provider pay for all call drops, irrespective of whether it was at fault. Further, the Court noted that while TRAI permitted an average of 2% of call drops per month, the amendment was penalising service providers who complied with this standard.

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<sup>2</sup> Quick Estimates of Index of Industrial Production and Use Based Index for the Month of March, 2016 (Base 2004-05=100), Press Release, Ministry of Statistics and Programme Implementation, May 12, 2016.

<sup>3</sup> Insolvency and Bankruptcy Code, 2016, Ministry of Finance, <http://egazette.nic.in/WriteReadData/2016/169882.pdf>.

<sup>4</sup> The Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Bill, 2016, Ministry of Finance, <http://www.prsindia.org/administrator/uploads/media/Enforcement%20of%20Security/Enforcement%20of%20Security%20Bill,%202016.pdf>.

For these reasons, the Court held the amendment to be arbitrary.

## External Affairs

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### Prime Minister visits Iran

Prime Minister Narendra Modi visited Iran from May 22-23, 2016.<sup>57</sup> During the visit, India and Iran entered into 12 agreements related to various sectors, including trade and transit, transportation, aluminium manufacturing, and policy and cultural exchanges.<sup>58</sup>

Some of the key agreements signed between both countries are with regard to the development of the Chabahar Port. Chabahar Port is located in the Gulf of Oman in south eastern Iran, and provides a trade and transit route to Afghanistan and Central Asian countries. India and Iran agreed to the joint development and operation of two terminals and five berths at the port for 10 years. India also promised the availability of about USD 500 million for this purpose.<sup>59</sup>

In addition, a trilateral agreement was signed during the visit between India, Iran, and Afghanistan. This agreement provides for establishment of a transport and transit corridor linking the Chabahar Port with Afghanistan.<sup>60</sup> India agreed to provide construction services and financing worth USD 1.6 billion for this project.<sup>58</sup>

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<sup>9</sup> "285<sup>th</sup> Report: Effects of Tobacco Curing on Environment and Health", Standing Committee on Science and

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