

PRS LEGISLATIVE RESEARCH



# Annual Policy Review

April 2014 - March 2015

**PRS Legislative Research**

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## Preface

PRS Legislative Research launched the Annual Policy Review last year with the aim of recording in one place all key legislative and policy developments in India during the fiscal year. These events have been classified in the following four broad categories: (i) Economy and Finance, (ii) Infrastructure (iii) Development sectors, and (iv) Law and Security.

The General Elections of 2014 resulted in the Bharatiya Janata Party securing a clear majority in Lok Sabha, and the National Democratic Alliance comprising of the BJP and its allies forming the government. A major decision by the new government was to replace the Planning Commission with a think tank called the Niti Aayog.

The base year to calculate GDP was revised in January 2015 and India's real GDP growth was estimated to be 7.4% in 2014-15. Inflation decreased over the fiscal year and was 5.2% at the end of the year.

Significant laws passed by Parliament this year included the National Judicial Appointments Commission Act, Securities Laws Act, Insurance Laws Act, Mines and Minerals Act, and the Coal Mines Act. In addition the government introduced the Constitution Amendment Bill to enable the levy of the Goods and Services Tax, amendments to the Land Acquisition Act and the Juvenile Justice Bill.

The 14th Finance Commission recommended increasing devolution of taxes from the centre to states from 32% to 42%. The increased tax devolution was recommended in order to increase the flow of unconditional transfers to states, giving them more flexibility in their spending.

Several other policy decisions and schemes impacting various sectors were announced. The government increased the equity cap on foreign direct investment across various sectors. For the defence and insurance sectors the investment limit was revised to 49%; for railways, construction and pharmaceutical sectors it was revised to 100%. The Supreme Court cancelled the allocation of coal blocks by the government between 1993 and 2011, which was followed by the government issuing two Ordinances to allocate the cancelled coal mines through competitive bidding. The spectrum auction in 2100, 1800, 900, and 800 MH band also concluded. The price of diesel was deregulated and a new domestic gas pricing policy was approved based on the modified Rangarajan Committee formula. Several schemes such as the Jan Dhan Yojana, Swachh Bharat Abhiyan, Saansad Adarsh Gram Yojana etc. were initiated.

The Annual Policy Review 2014-15 summarises all major policy developments over the year, with references to the original documents. We hope that Members of Parliament, Members of Legislative Assemblies, policy experts, civil society organisations and others interested in policy matters will find this Review valuable. We welcome your feedback on the Review.

New Delhi

May 2015

# Highlights of the year

## General Elections 2014

The general elections held in April-May 2014 resulted in the Bharatiya Janata Party (BJP) securing a clear majority in Lok Sabha. The National Democratic Alliance won 336 seats in all.

## Macroeconomic Developments

The base year for the calculation of national income and consumer price inflation was revised. The current account deficit almost doubled. The consumer price inflation decreased over the course of 2014-15 from 8.6% to 5.2%. RBI reduced the policy repo rate from 8% to 7.5%.

## NITI Aayog

NITI (National Institution for Transforming India) Aayog was established in January 2015. It replaced the Planning Commission. NITI Aayog will provide strategic and technical advice to states on various aspects.

## Finance

The Fourteenth Finance Commission recommended an increase in the devolution of taxes to states, from 32% to 42%. The cap on foreign equity investment in Indian insurance companies was increased from 26% to 49%.

## Coal

The Supreme Court cancelled the coal blocks allocated by the Screening Committee. Two successive Ordinances to allocate the cancelled coal mines through competitive bidding were promulgated and passed.

## Railways

The Railways Budget was presented in July 2014 and February 2015. The Budget speech focused on increasing investments.

FDI allowed in Railways for select activities was increased to 100%.

## Power and Natural Gas

Diesel prices were deregulated and, a new domestic gas pricing policy, based on the modified Rangarajan formula, was approved.

## Agriculture, Food and Public Distribution

The High-Level Committee on the restructuring of Food Corporation of India recommended that the coverage of National Food Security Act be reduced from 67% to 40%. Amendments to the Consumer Protection Act were also drafted.

## Telecom

Auction of spectrum in the 800, 900, 1800 and 2100 MHz bands was conducted. The Telecom Regulatory Authority of India released a consultation paper, seeking comments, on the regulation of over-the-top services, net neutrality, etc.

## Rural development

The government issued two successive Ordinances to amend the Land Acquisition Act. Schemes such as Swachh Bharat Abhiyan, Saansad Adarsh Gram Yojana, and RURBAN mission were launched. Changes were made to MGNREGA.

## Environment

A High Level Committee constituted to review environmental laws recommended: (i) establishing authorities at the national and state level to grant environmental clearances, and (ii) amendments to certain laws.

## Health

The government circulated amendments to various laws

regulating the health sector. These include the Medical Termination of Pregnancy Act, Drugs and Cosmetics Act, and the Cigarettes and Tobacco Control Act. The Draft National Health Policy and the National Mental Health Policy were also proposed.

## Education

Four Bills were passed by Parliament, which (i) seek to provide independent and statutory status to five existing institutes, (ii) set up another central university in Bihar, and (iii) declare three existing schools as institutes of national importance.

## Women and Child Development

The Juvenile Justice (Care and Protection of Children) Bill, 2014 was introduced in Lok Sabha. The Bill provides for the trial of 16-18 year olds committing certain types of offences as adults.

## Law and Justice

Parliament passed a Constitution Amendment Bill to set up a National Judicial Appointments Committee to appoint high court and Supreme Court judges.

## Labour

Parliament passed a Bill to allow employers greater flexibility in conducting apprenticeships. Another Bill was passed to broaden the scope of exemptions available to small establishments under certain labour laws.

## Home Affairs

Bills were passed in relation to the reorganisation of Andhra Pradesh, to facilitate the Polavaram irrigation project, and increase the strength of the Legislative Council of Andhra Pradesh.

**Table 1: Legislation passed between April 2014 and March 2015**

<b>Title</b>	<b>Sector</b>	<b>Key Objectives</b>
The School of Planning and Architecture (SPA) Bill, 2014	Education	Declares three existing SPAs as institutes of national importance to promote research in architectural studies.
The Central Universities (Amendment) Bill, 2014	Education	Sets up an additional central university in Bihar.
The Indian Institutes of Information Technology (IIIT) Bill, 2014	Education	Seeks to provide independent and statutory status to four existing institutes.
The National Institute of Design Bill, 2013	Education	Declares NID, Ahmedabad as an institute of national importance.
The Andhra Pradesh Reorganisation (Amendment) Bill, 2015	Home Affairs	Increases the number of members in the Legislative Council of Andhra Pradesh from 50 to 58 members.
The Citizenship (Amendment) Bill, 2015	Home Affairs	Relaxes certain provisions regarding applying for citizenship and grounds for eligibility for the OCI card.
The Andhra Pradesh Reorganisation (Amendment) Bill, 2014	Home Affairs	Alters the boundaries of the states of Telangana and Andhra Pradesh.
The Motor Vehicles (Amendment) Bill, 2015	Transport	Brings e-rickshaws and e-carts under the ambit of the Motor Vehicles Act, 1988.
The Merchant Shipping (Amendment) Bill, 2013	Transport	Prohibits the use of harmful organotins in anti-fouling paints used on ships and establishes a mechanism to prevent the future use of other harmful substances in anti-fouling systems.
The Merchant Shipping (Second Amendment) Bill, 2013	Transport	Amends the Act to include provisions of the Maritime Labour Convention, 2006 of the International Labour Organisation.
The Insurance Laws (Amendment) Bill, 2015	Finance	Increases the cap for foreign equity in Indian insurance companies from 26% to 49%.
The Securities Laws (Amendment) Bill, 2014	Finance	Widens the definition of Collective Investment Schemes and sets up special courts to try offences.
The National Capital Territory of Delhi Laws (Special Provisions) Amendment Bill, 2014	Urban Development	Extends the date to prohibit punitive action against unauthorized colonies from Dec 31, 2014 to Dec 31, 2017.
The Public Premises (Eviction of Unauthorised Occupants) Amendment Bill, 2014	Urban Development	Expands the definition of public premises to include premises of companies where 51% or more shares are owned by the government, including metro properties.
The Apprentices (Amendment) Bill, 2014	Labour	Amends the Apprentices Act, 1961 to provide employers greater flexibility in conducting apprenticeships.
The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Amendment Bill, 2011	Labour	Amends various labour laws to exempt certain establishments from maintaining registers.
The Mines and Minerals (Development and Regulation) Amendment Bill, 2015	Mining	Extends existing mining leases, provides for the auction of leases and the creation of a District Mineral Foundation.
The Coal Mines (Special Provisions) Bill, 2015	Coal	Allocates the coal mines cancelled by the Supreme Court by way of public auction.
The Constitution (121st Amendment) Bill, 2014	Constitution	Amends the Constitution to modify the method of appointment of higher court judges, and creates a body called the National Judicial Appointments Commission to make such appointments.
The National Judicial Appointments Commission Bill, 2014	Law and Justice	Lays down the procedure to be followed by the NJAC in making appointments of judges of higher courts.
The Delhi Special Police Establishment (Amendment) Bill, 2014	Administration	Provides that in the absence of a formal leader of opposition, the leader of the single largest party in opposition in LS will be part of Committee for appointing CBI director.
The Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Bill, 2014	Textiles	Changes the law with retrospective effect to reverse a court decision on land leased by NTC mills.
The Constitution (Scheduled Castes) Orders (Amendment) Bills, 2014 [two Bills]	Social Justice	Both Bills change the list of Scheduled Castes in certain states.
The Telecom Regulatory Authority of India (TRAI) (Amendment) Bill, 2014	Telecom	Makes the Chairperson and full-time members of TRAI eligible for any employment under the government or any State Government or in any telecom service company.

## Economy and Finance

### General Elections 2014

The general elections held in April-May 2014 resulted in the Bharatiya Janata Party (BJP) securing a clear majority in Lok Sabha, the first time that any party has done so since the elections of 1984.<sup>1</sup> The National Democratic Alliance won 336 seats in all. The party-wise results are summarised below.

**Table 2: Party position after 16<sup>th</sup> general elections**

Party	Number of seats
Bharatiya Janata Party	282
Indian National Congress	44
All India Anna Dravida Munnetra Kazhagam	37
All India Trinamool Congress	34
Biju Janata Dal	20
Shiv Sena	18
Telugu Desam Party	16
Telangana Rashtra Samithi	11
Others	81
Total	543

Sources: Press Information Bureau; PRS.

The National Democratic Alliance, comprising the BJP and its allies formed the government with Mr. Narendra Modi as Prime Minister.

### Macroeconomic developments

#### State of the Economy in 2014-15

India's real Gross Domestic Product (GDP) at constant prices was estimated at 7.4% in 2014-15.<sup>2</sup> The base year to calculate GDP was revised to 2011-12 (earlier 2004-05) in January 2015, and the methodology was also changed. As a result, the growth rates in the previous years have been revised. The growth for 2013-14 was revised to 6.9% under the new series compared to 4.7% estimated earlier under the old series.

**Table 3: Sectoral growth rate in 2014-15**

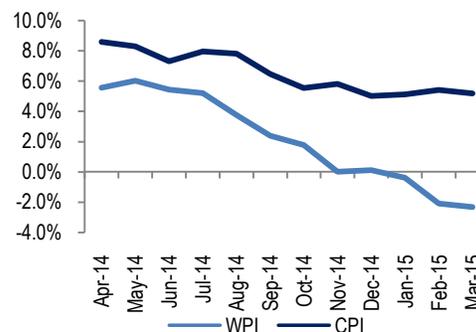
Item	Apr-Jun 2014	Jul-Sep 2014	Oct-Dec 2014
Agriculture	3.5%	2.0%	-0.4%
Mining	5.1%	2.4%	2.9%
Manufacturing	6.3%	5.6%	4.2%
Electricity	10.1%	8.7%	10.1%
Construction	5.1%	7.2%	1.7%
Services	8.6%	10.1%	13.0%
<b>GDP</b>	<b>6.6%</b>	<b>7.8%</b>	<b>7.5%</b>

Sources: MOSPI; PRS. Note: Figures in the table are Gross Value Added at Basic Prices, at the 2011-12 prices.

#### Inflation trends in 2014-15

Inflation decreased over the course of 2014-15. Consumer Price Index (CPI) inflation fell from 8.6% in April 2014 to 5.2% in March 2015 (both over the corresponding month the previous year). Wholesale Price Index (WPI) inflation fell from 5.5% to -2.3% over the same period.<sup>3,4</sup> In January 2015, the base year for calculating CPI inflation was revised from 2010 to 2012.

**Figure 1: CPI and WPI in 2014-15**



Sources: Ministry of Commerce and Industry, MOSPI; PRS.

#### Monetary Policy Decisions

The Reserve Bank of India (RBI) took the following decisions over the course of 2014-15:

- **Policy rates cut:** RBI reduced the policy repo rate from 8% to 7.5% in 2014-15. The rate was reduced by 25 basis points each in January 2015 and March 2015. A decrease in inflation over the year was stated as one of the reasons for reducing the repo rate. RBI has set a target of 6% CPI inflation by January 2016 and 4% by the end of 2017-18.

- **Term repos:** Term repos of 7-day and 14-day tenure were introduced in October 2013. The liquidity provided under term repos remained at 0.75% of Net Demand and Time Liabilities (NDTL; roughly speaking, all bank deposits) of the banking system, since RBI increased it from 0.5% in April 2014. Liquidity under overnight repo (repo with a term of one day) remained unchanged at 0.25% of NDTL.
- **Cash Reserve Ratio:** Cash Reserve Ratio (CRR) is the share of NDTL that banks need to maintain as cash balance with the RBI. CRR has been unchanged at 4% since April 2014.

### Balance of Payments

The Balance of Payments account of a country consists of the current account (net exports of goods and services, remittances and net dividend payments) and the capital account (net flow of funds through equity investments and borrowings).

The surplus of the capital account is generally used to finance the current account deficit (CAD). In the first nine months of the fiscal year (April-December) of 2014-15, India's CAD stood at USD 26.2 billion, a decrease of USD 4.9 billion from its value in the corresponding period of 2013-14, of USD 31.1 billion.<sup>5</sup>

**Table 4: India's Balance of Payments for 2014-15 (in USD billion)**

Items	Apr-Jun: 2014-15	Jul-Sep: 2014-15	Oct-Dec: 2014-15
A. Current Account	-7.8	-10.1	-8.2
B. Capital Account and Financial Account	19.8	18.7	23.2
C. Errors and Omissions	-0.8	-1.7	-1.8
Change in reserves (A+B+C)	11.2	6.9	13.2

Sources: RBI; PRS.

The capital account had a surplus of USD 30.5 billion from April to December 2014, as against a surplus of USD 31.3 billion in the same period of 2013-14.

### Decisions taken regarding FDI

The government notified the equity cap on foreign direct investment (FDI) in various sectors in 2014-15. The Table below summarizes FDI allowed across sectors. The automatic entry route entails that no prior approval is needed for foreign investment, and the government route means that investment can be made only with the approval of a government agency, such as the FIPB or DIPP or the Department of Economic Affairs.

**Table 5: FDI cap across sectors in 2014-15**

Sector	FDI cap	Entry route
Defence Industry	49%	Government up to 49%. Cabinet Committee on Security to assess over 49% on a case by case basis
Railways Infrastructure	100%	Automatic
Insurance	49% (including FDI and FPI/FII)	Automatic up to 26%. Government beyond 26% and up to 49%
Infrastructure (construction development)	100%	Automatic
Pharmaceuticals	100%	Automatic

Sources: Consolidated FDI Policy 2015, Ministry of Commerce and Industry; PRS.

## Finance

### Union Budgets 2014-15 and 2015-16

With the formation of the new government, the Finance Minister, Mr. Arun Jaitley, presented the Union Budget for the financial year 2014-15 on July 10, 2014.<sup>6</sup> The Union Budget for 2015-16 was presented on February 28, 2015. The key budget highlights are summarised below:

#### Budget Highlights

- **Expenditure:** The government proposes to spend Rs 17,77,477 crore in 2015-16, which is 6% higher than the revised estimate for 2014-15.
- **Receipts:** Receipts (other than borrowings) are expected to increase by 5%, to Rs 12,21,828 crore. Tax receipts are expected to increase by 16%.
- **Growth:** The government expects a nominal GDP growth rate of 11.5% in 2015-16. Fiscal deficit is targeted at 3.9% of GDP and revenue deficit is targeted at 2.8% of GDP.

**Table 6: Budget Estimates (in Rs crore)**

Items	Budgeted 2014-15	Budgeted 2015-16	% Change
Total Expenditure	17,94,892	17,77,477	-1.0%
Total Receipts (without borrowings)	12,63,715	12,21,828	-3.3%
<b>Revenue Deficit</b>	<b>3,78,348</b>	<b>3,94,472</b>	<b>4.3%</b>
% of GDP	3	3	
<b>Fiscal Deficit (borrowings)</b>	<b>5,31,177</b>	<b>5,55,649</b>	<b>4.6%</b>
% of GDP	4	4	

Sources: Union Budgets 2014-15, 2015-16; PRS.

### Government establishes NITI Aayog

NITI (National Institution for Transforming India) Aayog, the body intended to replace the Planning Commission, was established on January 1, 2015.<sup>7</sup> The proposed institution will provide strategic and technical advice to states regarding different aspects of policy. NITI Aayog, among other things, aims to:

- Involve states in deciding national development priorities, sectors and strategies;
- Foster cooperative federalism through state initiatives and mechanisms;
- Develop plans at the village level and scale them up to higher levels of government;
- Design strategic and long term policy and programme frameworks, and monitor their progress and efficacy; and
- Focus on technology up-gradation and capacity building in order to implement programmes and initiatives.

NITI Aayog will have the Prime Minister as the Chairperson, as in the Planning Commission. It will comprise of: (i) a Governing Council with all Chief Ministers and Lt. Governors, (ii) Regional Councils with all Chief Ministers of State and Lt. Governors of UTs, and (iii) experts, specialists, with relevant domain knowledge, as special invited members and (iv) an organizational structure.

In February 2015, the government announced the constitution of three sub-groups within NITI Aayog.<sup>8</sup> These sub-groups aim to: (i) study the 66 Centrally Sponsored Schemes and recommend which ones to continue, to transfer or cut down; (ii) recommend how NITI Aayog can promote skill development and skilled manpower in states; and (iii) decide on

institutional mechanisms to be evolved in implementing the Swachh Bharat scheme.

The Prime Minister also asked all states to create two task forces under the NITI Aayog, for poverty alleviation and development of agriculture.

### Fourteenth Finance Commission report tabled in Parliament

The report of the Fourteenth Finance Commission was tabled in Parliament in February 2015.<sup>9</sup> The Finance Commission is a constitutional body that is constituted once in five years, and gives suggestions on centre-state financial relations, among other things. Recommendations of the 14<sup>th</sup> Finance Commission include:

- **Tax devolution:** Tax devolution should be the primary source of transfer of funds to states. Since it is formula based, it will be a fairer way of transferring funds to states as opposed to direct grants. The devolution of taxes from centre to states is recommended to increase from 32% to 42%.
- **Grants-in-Aid:** Grants-in-aid are unconditional transfers made by the centre to states from time to time. The Commission has recommended giving Rs 5,37,354 crore as grants-in-aid to states in the 2015-2020 period. Details of grants-in-aid recommended by the Finance Commission are in Table 7.

**Table 7: Grants-in-Aid to states from 2015-20 (in Rs crore)**

Grant	14 <sup>th</sup> FC
Disaster management	55,097
Local government	2,87,436
Grants to fulfil additional revenue needs	1,94,821
<b>Total</b>	<b>5,37,354</b>

- **Centrally Sponsored Schemes:** A new institutional arrangement should be constituted for consultation between the Central and state governments, to design and implement relevant schemes for states.
- The role of the Inter State Council should be expanded to include functions such as recommending resources for infrastructure schemes in north-eastern region, and integrating economic and environmental concerns in decision making.
- The Central government should use its fiscal space to address the needs of states and ensure that the current level of transfers, of about 49%

of gross revenue receipts is continued in the 2015 to 2020 period.

- **Goods and Services Tax (GST):** With the introduction of GST, some states may face revenue losses until their fiscal situation stabilizes over a few years. In order to compensate states for these losses, an autonomous and independent GST Compensation Fund should be set up.
- Revenue compensation to states for GST should be for five years. 100% compensation should be paid to states in the first three years, 75% in the fourth year, and 50% in the fifth year.
- **Fiscal Deficit:** Fiscal deficit of states should be aimed at 3% of the GSDP, with a flexibility of 0.25% over this limit. If the interest payments are less than or equal to 10% of revenue receipts in a year, states will be eligible for an additional borrowing limit of 10% of GSDP.
- **FRBM Act:** The Fiscal Responsibility Budget Management Act should be amended to remove the definition of effective revenue (difference between revenue deficit and grants for creation of capital assets) and create an independent fiscal council to evaluate the fiscal policy implications of budget proposals, before the budget is announced.

### Expenditure Management Commission constituted

The government constituted an Expenditure Management Commission (Chair: Dr. Bimal Jalan) in September 2014.<sup>10</sup> The Commission aims to: (i) review major areas of central government expenditure, the institutional arrangements (such as budgeting process), (ii) suggest ways of meeting development expenditure needs without compromising on fiscal discipline, (iii) suggest a strategy to improve allocative efficiency, to meet reasonable proportion of expenditure on services through user charges, etc, and (iv) consider relevant issues concerning public expenditure management. The Commission submitted its first interim report to the government in January 2015.<sup>11</sup> The report is not in public domain.

### Securities Laws (Amendment) Bill, 2014 passed by Parliament

The Securities Laws (Amendment) Bill, 2014 was passed by Parliament in August 2014.<sup>12</sup> The Bill amends the Securities and Exchange Board of India Act, 1992 (the SEBI Act) and makes consequential

amendments to the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996.

The key provisions of the Bill include:

- **Collective Investment Schemes (CIS):** The definition of CIS has been expanded to include all pooling of funds of Rs 100 crore or above, that are not regulated by any law.
- **Search and seizure:** The SEBI Act allowed SEBI to conduct search and seizure operations on a suspected violator's premises after obtaining permission from a First Class Judicial Magistrate. The Bill requires SEBI to obtain permission from the Magistrate or Judge of a court in Mumbai (as designated by the government).
- **Consent settlement and disgorgement:** The Bill explicitly permits SEBI to: (i) enter into a consent settlement with a person against whom proceedings have been initiated, and (ii) order disgorgement of unfair gains made by a market participant.
- **Attachment of property:** The Bill permits SEBI to attach bank accounts and property, and arrest and detain a person for his failure to comply with disgorgement orders or pay any monetary penalty.
- **Special courts:** The Bill provides for the establishment of special courts to try offences under the SEBI Act.

For more details, please see the PRS analysis.<sup>13</sup>

### Constitution Amendment Bill related to GST introduced in Lok Sabha

The Constitution (122<sup>nd</sup> Amendment) Bill, 2014 was introduced in Lok Sabha in December 2014.<sup>14</sup> It seeks to amend the Constitution to introduce the goods and services tax (GST), and imposes concurrent powers on the centre and states to do so.

Earlier, the Constitution (115<sup>th</sup> Amendment) Bill, 2011, also in relation to the introduction of GST, was introduced in Lok Sabha in 2011.<sup>15</sup> It lapsed with the dissolution of the 15<sup>th</sup> Lok Sabha.

Salient features of the 2014 Bill include:

- **Power to impose GST:** The Bill amends the Constitution to empower Parliament and state legislatures to make laws with respect to goods and services tax.
- **Goods exempt:** Alcoholic liquor is exempted from the purview of the GST. The GST Council

is to decide when GST would be levied on petroleum crude, high speed diesel, motor spirit (petrol), natural gas, and aviation turbine fuel.

- **GST Council:** The Bill creates a GST Council consisting of the union finance minister, the minister of state for revenue and finance ministers of all states. The GST Council shall make recommendations on the goods and services that will be subjected to and exempted from GST, the rates including floor rates with bands, model GST law, special provision to special status states, etc. Decisions will be made based on at least three-fourth majority, with the centre having one-third of the vote and the states two-thirds.
- **Compensation to states:** Parliament may, by law, provide for compensation to states for revenue losses arising out of the implementation of the GST, on the GST Council's recommendations. This would be for a period up to five years.
- **Integrated GST:** The Bill inserts a new Article in the Constitution to empower only the centre to levy and collect GST on supplies in the course of inter-state trade or commerce. The tax collected would be divided between centre and the states.
- **Additional tax on supply of goods:** An additional tax (not to exceed 1%) on the supply of goods in the course of inter-state trade or commerce would be levied and collected by the centre. Such additional tax shall be assigned to the states for two years, or as recommended by the GST Council.

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

The Insurance Laws (Amendment) Bill, 2015 was passed by Parliament in March 2015.<sup>16</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 insurance companies should be inclusive of all forms of foreign direct investment (FDI) and foreign portfolio investments (FPI).
- **Capital Requirements:** A company engaged exclusively in the health insurance business cannot register unless it has a paid up equity capital of Rs 100 crore.

- 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:** Under 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 a High Court. The Bill states that the appointment can be made by Insurance Regulation Development Authority, and that this decision can be appealed in the Securities Appellate Tribunal.

For more details, please see the PRS analysis.<sup>17</sup>

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

The Undisclosed Foreign Income and Assets (Imposition of Tax) Bill, 2015 was introduced in the Lok Sabha in March 2015.<sup>18</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 foreign 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.

### Regional Rural Banks (Amendment) Bill, 2014 passed by Lok Sabha

The Regional Rural Banks (Amendment) Bill, 2014 was passed by Lok Sabha on December 22, 2014.<sup>19</sup> The Bill seeks to amend the Regional Rural Banks Act, 1976. The Act provides for the incorporation, regulation, and closure of Regional Rural Banks (RRBs). RRBs are banks that provide loans and advances to small and marginal farmers, agricultural labourers, cooperative societies, artisans, etc.

The Bill allows: (i) the managerial and financial assistance provided by sponsor banks to RRBs to continue beyond a period of five years, (ii) raising the amount of authorised capital from Rs 5 crore to Rs 2,000 crore, (iii) RRBs to raise capital from sources other than the central and state governments, and sponsor banks.

For more details, please see the PRS analysis.<sup>20</sup>

### The Payment and Settlement Systems (Amendment) Bill, 2014 passed by Lok Sabha

The Payment and Settlement Systems (Amendment) Bill, 2014 was passed by Lok Sabha in December 2014.<sup>21</sup> The Bill was referred to a Select Committee of the Rajya Sabha in December 2014, and the Committee submitted its report in February 2015. The Select Committee did not recommend any changes in the Bill.

The Bill amends the Payment and Settlement Systems Act, 2007 which was enacted to regulate and supervise payment systems in India. The Bill seeks to extend the application of the Act to include a designated trade repository, or issuer, in relation to payment systems.

Another important provision relates to “netting” of positions in case of insolvency in systems with a central counterparty. The Act provided for netting in case of insolvency of system participation; the Bill extends this to the case where the central counterparty may become insolvent.

For more details, please see the PRS analysis.<sup>22</sup>

### Government launches the Pradhan Mantri Jan Dhan Yojana

The government launched the Pradhan Mantri Jan Dhan Yojana (PMJDY) in August 2014.<sup>23</sup> PMJDY aims to promote financial inclusion by providing each household with a bank account.

Key features of PMJDY are:

- **Access:** The programme aims to provide each household with a banking facility either through a bank branch or a fixed point business correspondent. The programme aims to provide every household with at least one bank account within one year of its launch. It is expected to cover 7.5 crore households.<sup>24,25</sup>
- **Facilities:** Every account holder will be provided with a debit card with Rs one lakh accident cover. An overdraft facility up to Rs 5,000 will also be permitted to Aadhaar enabled accounts after six months of satisfactory operation of accounts.
- **Benefits transfer:** The PMJDY scheme proposes to channel all central, state and local government benefits to the beneficiaries through the bank accounts.
- **Timeline:** Phase one of PMJDY will focus on providing all households with banking facilities and will be concluded by August 2015. Phase two (to be concluded by August 2018) will focus on: (i) provision of accident cover; (ii) offering pension schemes for unorganised sector workers (like the Swavalamban scheme); and (iii) creation of a Credit Guarantee Fund for defaults in accounts to avail the overdraft facility.

### Interim report of Bankruptcy Law Reforms Committee published

The Bankruptcy Law Reforms Committee submitted its interim report to the Ministry of Finance in February 2015.<sup>26</sup> The Finance Minister in his budget speech in July 2014 had announced that an entrepreneur-friendly, legal framework for bankruptcy would be introduced for small and medium enterprises. Thereafter, the Bankruptcy Law Reforms Committee was formed under Mr. T. K. Vishwanathan in August 2014.

The Committee aimed to: (i) examine current legal framework for corporate insolvency, and (ii) develop an insolvency code for India to cover personal and business insolvency.

Recommendations in the interim report include:

- The Companies Act, 2013 should be amended to allow: (i) any secured creditor to initiate rescue proceedings if a debtor company fails to pay a single debt owed to it, within a month of serving the notice, and (ii) the debtor company to initiate rescue proceedings for itself on the grounds of not being able to pay any of the amount owed to the creditor.

- The Companies Act, 2013 currently does not provide any criterion for determining sickness of a company, and leaves it to the discretion of the National Company Law Tribunal (NCLT). The decision on whether the company should be rescued or liquidated should be supported by 75% of secured creditors by value (or 75% of all creditors by value, for a company with no secured debt).
- Grounds on which the NCLT can grant, refuse or lift a moratorium on a business are also listed in the recommendations.
- The Companies Act, 2013 should be amended to allow unsecured creditors (representing 25% of the value of the total amount owed to all unsecured creditors), to initiate rescue proceedings if the debtor company does not pay a single debt owed by it, within a month of serving the notice.

### RBI releases Nayak Committee report on governance of bank's Boards

The Reserve Bank of India (RBI) released the report of the Committee for Review of Governance of Boards of Banks in India (Chairperson: Mr. P. J. Nayak) in May 2014.<sup>27</sup> The Committee was constituted to examine the working of bank boards, review RBI guidelines on bank ownership and representation, and investigate possible conflicts of interest in board representation.

Key recommendations of the Committee include:

- **Ownership of Public Sector Banks (PSBs):** All PSBs should be incorporated under the Companies Act, 2013. The government should transfer its holdings in PSBs to a Bank Investment Company (BIC). Some constraints faced by PSBs could be removed if the government reduces its holding below 50%.
- **Board appointments in PSBs:** The process of board appointments in PSBs should be formalised in a three-phase process. In the first phase, a Bank Boards Bureau comprising former senior bankers should advise on all board appointments. In the second phase BIC should take over the process. In the third phase, BIC should delegate these powers to PSBs' boards.
- **Private sector banks:** Diversified investment funds should be allowed to hold 15-20% stake in a private sector bank without regulatory approval (currently at 5%). Other investors can hold up to 10% stake. The promoters should be permitted

to hold up to 25% stake in a private sector bank (currently at 15%).

### Working Group on Resolution Regime for Financial Institutions submits report

The High Level Working Group constituted by the Reserve Bank of India to suggest measures to strengthen the resolution regime for financial institutions and financial market infrastructures (FMIs), submitted its report in May 2014. Key recommendations of the Working Group include:<sup>28</sup>

- **Comprehensive framework:** A separate comprehensive legal and policy framework for resolving financial institutions (banks, companies in insurance, pensions, securities, etc.) and FMIs (including payment systems and securities settlement systems) should be created.
- **Objective of resolution:** The Committee stated that the aim of the resolution was not to preserve financial institutions, but to ensure continuity of the functions that are critical for the financial system as a whole, and limit any use of taxpayer's money.
- **Structure of resolution authority:** A single independent Financial Resolution Authority (FRA), mandated under law for resolving all financial institutions and FMIs, in coordination with the respective financial regulators should be created. This is in consonance with the recommendation of the Financial Sector Legislative Reforms Commission.
- **Early intervention:** Each regulator will develop a prompt corrective action (PCA) framework for institutions under its regulatory jurisdiction. When the PCA framework signals that an institution is at the risk of failing (but has not yet failed), the institution shall be passed on to the FRA. The FRA will have resolution tools at its disposal to resolve financial institutions while protecting consumer interests.

### Report of the Committee for rationalising the definition of FDI and FII

The Committee for rationalising the definition of Foreign Direct Investment (FDI) and Foreign Institutional Investor (FII) (Chair: Dr. Arvind Mayaram) submitted its report in June 2014.<sup>29</sup>

The government in its 2013-14 budget had proposed to: (i) recognise less than 10% stake in a company by a foreign investor as FII investment, and (ii) recognise more than 10% stake as FDI investment.

The Committee was constituted to examine the application of this principle.

Key recommendations of the Committee include:

- **Foreign Portfolio Investment (FPI):** An investment constituting less than 10% stake in a listed Indian company by eligible foreign investors be classified as FPI (equivalent to FII).
- **FDI:** The following investments are to be treated as FDI: (i) all foreign investments constituting more than 10% stake in a listed Indian company, (ii) all existing investments made under the FDI route, irrespective of the level of stake, and (iii) all foreign investments in an unlisted company.
- **Others:** Current RBI regulations which restrict Foreign Venture Capital Investors (FCVI) investments to 10 sectors should be relooked. Guidelines for pricing of share sales by FCVI investors should be brought at par with those for FDI investors. Non-repatriable NRI investments should be treated as domestic investments.
- **Regulation:** An investor can invest in a company either under the FPI route or the FDI route, but not under both. The investee company should be responsible for adherence to the overall FPI limit.

### Sixth BRICS Summit Declaration

The BRICS nations, namely Brazil, Russia, India, China and South Africa met in Fortaleza, Brazil for the Sixth BRICS Summit in July 2014, to discuss “Inclusive Growth: Sustainable Solutions”.<sup>30</sup> The following major decisions were announced:

- An agreement establishing the New Development Bank (NDB) was signed. This bank, with an initial authorised capital of USD 100 billion, will mobilise resources for infrastructure and sustainable development projects in BRICS and other emerging and developing economies.
- A Treaty for the establishment of the BRICS Contingent Reserve Arrangement (CRA) was signed, with an initial size of USD 100 billion. This arrangement will have a precautionary effect, and will help countries forestall short-term liquidity pressures, promote BRICS cooperation and strengthen the global financial safety net.

### SEBI notifies regulations related to real estate and infrastructure investment trusts

The Securities and Exchange Board of India (SEBI) notified regulations for Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs) in September 2014.<sup>31</sup>

REITs are trusts which collect money from investors to invest in real estate projects. The revenue that is generated is distributed back to the investors. Similarly, InvITs are trusts which invest in infrastructure projects.

Through these regulations, SEBI has specified the structure and size of these trusts, the responsibilities of the various parties involved, investment conditions and dividend policies.

More information on these regulations is available in the PRS Monthly Policy Reviews for the months of October 2013 and July 2014.<sup>32,33</sup>

## Commerce and Industry

### WTO approves India-US agreement on food security

The World Trade Organisation (WTO) adopted the Trade Facilitation Agreement that aims to ease the movement of goods between member countries in December 2014.<sup>34</sup> Details of the events that took place from December 2013-14 are given below:

#### December 2013

The Trade Facilitation Agreement was to be added to the WTO Agreement at its Ninth WTO Ministerial Conference in Bali. The WTO sets a limit on the support that governments can provide to farmers, at 10% of the total value of production of food grains. Developing countries, like India, with large populations that need to be ensured food security, would be protected from being challenged in WTO on grounds of exceeding the 10% limit. An interim solution on the limit of food grains stockholding issue was agreed upon at the conference.

#### July 2014

India did not support the adoption of the Protocol of Amendment for the Agreement at the WTO meeting. It held that the adoption of the protocol must be postponed until a permanent solution on food security is reached, since they are both part of the decisions from the conference in December 2013.<sup>35</sup> The General Council could not find a solution and was declared closed.

## November 2014

India and United States reached an agreement on subsidies resulting from the public stockholding of food grains on November 13, 2014.<sup>36</sup> The India-US agreement implied that US supported India's demand of being allowed to give subsidies to its farmers indefinitely, without breaching WTO's limit.<sup>37</sup>

The peace clause can be used by India if it can meet the following conditions:

- To ensure that the public stockholding programme does not distort global trade and similar programmes by other countries.
- To notify the WTO if it has crossed or is likely to cross the limit on subsidies provided to farmers.
- New food stockholding programmes that may be launched in the future will have to abide by the 10% limit set by the WTO.<sup>38</sup>

## Corporate Affairs

### Companies (Amendment) Bill, 2014 passed by Lok Sabha

The Companies (Amendment) Bill, 2014 was passed by Lok Sabha in December 2014.<sup>39</sup> The Bill is currently pending in Rajya Sabha.

The Bill amends the Companies Act, 2013. It introduces amendments in relation to related party transactions, fraud reporting by auditors, making common seal optional, and jurisdiction of special courts to try certain offences, etc. Salient features of the Bill include:

- **Minimum paid up share capital:** The Act requires a private company to have a minimum paid-up share capital of one lakh rupees or higher. Further, it requires a public company to have a minimum paid up share capital of five lakh rupees or higher. The Bill removes the requirement of a minimum paid up share capital amount for private and public companies.
- **Penalty for acceptance of public deposits:** If a company:
  - accepts any deposit which is in contravention to provisions specified in the Act or rules under it, or
  - fails to repay the deposit or any interest within the time specified in the Act, or time allotted by a Tribunal,
 it will be subject to certain penalties.

- The penalties include: (i) a fine between one crore rupees and Rs 10 crore, in addition to the deposit or interest that is due, and (ii) up to seven years imprisonment and fine between Rs 25 lakh to Rs two crore, or both, for the defaulting officer. If it is proved that the defaulting officer of the company did so willfully, he will be liable for fraud.
- **Related Party Transactions:** The Act requires a company to obtain prior approval by a special resolution before entering into any contract or transactions. A member of the company, who is a related party to the transaction, is prohibited from voting on this special resolution. The Bill replaces the requirement of a special resolution with an ordinary resolution.
- **Special Courts:** The Act permits the centre to establish special courts for trial of all offences. The Bill restricts the jurisdiction of special courts to only try offences where punishment is imprisonment of two years or more.

## Agriculture

### High Level Committee report on the restructuring of FCI submitted

A High-Level Committee (Chair: Mr. Shanta Kumar) was set up by the government in August 2014 to suggest the restructuring of Food Corporation of India (FCI), in order to improve its efficiency and financial management.<sup>40</sup> The Committee submitted its report in January 2015. Key recommendations in the report include:

- **Procurement:** FCI should hand over the procurement operations of wheat, paddy and rice to states where a reasonable infrastructure of procurement has been established, such as Andhra Pradesh, Chhattisgarh, Haryana, Madhya Pradesh, Odisha and Punjab. FCI can accept surplus from these states and hand it over to deficient states. FCI should help states which have to resort to distress sales by selling much below the minimum support prices (MSP), and which are dominated by small holdings, such as Uttar Pradesh, Bihar, West Bengal, and Assam.
- A Negotiable Warehouse System should be taken up in order to bring the private sector into the system and reduce costs of storage to the government. Farmers can store their grains at a registered warehouse, and can receive up to 80% of advances from banks, against the value of

their produce at the MSP. They can later sell stocks when the prices are at a convenient level.

- **Food security and public distribution:** In order to avoid high leakages in the distribution system, the implementation of the National Food Security Act (NFSA) should be limited to states that have done end-to-end computerization of their food management system. The Committee also recommended that the coverage of the NFSA be reduced from the current 67% to 40% of the population.
- The allocation of food grains to priority households should be increased from 5kg per person to 7 kg per person. Pricing for high priority families should be adjusted to be about 50% of MSP.
- **Move to cash transfer:** FCI should gradually move from a food grain distribution system to a cash transfer system. This can begin from larger cities with populations of more than one million and then move to other cities.
- **Fertilizer subsidy:** Farmers should be given direct cash subsidy on fertilizers of about Rs 7000/ha, and the fertilizer sector can subsequently be deregulated.

### 2014-15 food grain production projections

According to the 2<sup>nd</sup> advance estimates of food grain production, the government expected food grain production in 2014-15 to be 261 million tonnes against 264 million tonnes in 2013-14, a decline of 1.3%.<sup>41</sup> The third estimates for food grain production for 2014-15 are expected to be released in May 2015.

**Table 8: Agricultural production targets for 2014-15 (in million tonnes)**

Production	2014-15 target	2013-14 estimate	% change
Rice	106.0	106.3	-0.3
Wheat	94.0	95.9	-1.9
Pulses	19.5	19.6	-0.4
Coarse cereals	41.5	42.7	-2.8
<b>All food grains</b>	<b>261.0</b>	<b>264.4</b>	<b>-1.3</b>
Oilseeds	33.0	32.4	1.8
Sugarcane	345.0	348.4	-1.0
Cotton*	35.0	36.5	-4.1
Jute*	11.2	11.4	-1.8

\* In million bales. Sources: Ministry of Agriculture; PRS.

### Rabi and Kharif sowing areas over 2014-15

As per 2<sup>nd</sup> advance estimates, the Rabi sowing area as of February 2015 stood at 615 lakh hectares, a

decline of 4.5% versus 2013-14.<sup>42</sup> All rabi crops have shown a decline in sowing area. Rabi rice has the highest decline, of 10.6% as compared to 2013-14. Sowing areas of coarse cereals and pulses have declined by 10% and 8% respectively.

**Table 9: Sowing area of Rabi crops as of February 2015 (in lakh hectares)**

Crop	2013-14	2014-15	% change
Rice	47	42	-10.6
Wheat	305	303	-0.7
Coarse Cereals	60	54	-10.0
Pulses	149	137	-8.1
Foodgrains	560	536	-4.3
Oilseeds	84	79	-6.0
<b>Total</b>	<b>644</b>	<b>615</b>	<b>-4.5</b>

Sources: Ministry of Agriculture, PRS.

The kharif sowing area as of October 2014 stood at 1027 lakh hectares, a decline of 2.2% versus 2013-14.<sup>43</sup> Oilseeds have witnessed the sharpest decline in sowing, followed by coarse cereals and pulse. Kharif rice sowing increased by 11.4% over 2013-14.

**Table 10: Sowing area of Kharif crops as of October 2014 (in lakh hectares)**

Crop	2013-14	2014-15	% change
Rice	376	380	1.1
Pulses	109	102	-6.4
Coarse Cereals	196	182	-7.1
Oilseeds	195	179	-8.2
Sugarcane	50	49	-2.0
Cotton	114	127	11.4
Jute & Mesta	8	8	0.0
<b>Total</b>	<b>1,050</b>	<b>1,027</b>	<b>-2.2</b>

Sources: Ministry of Agriculture, PRS.

### Minimum Support Prices

The government approved the Minimum Support Prices (MSPs) for the Rabi crops of 2014-15.<sup>44</sup> The Table below shows the change in MSPs of Rabi crops over the last year.

**Table 11: Rabi crops MSPs (in Rs/Quintal)**

Crop	MSP 2013-14	MSP 2014-15	% change
Wheat	1,400	1,450	3.6
Barley	1,100	1,150	4.5
Gram	3,100	3,175	2.4
Masur (Lentil)	2,950	3,075	4.2
Rapeseed/ Mustard	3,050	3,100	1.6
Safflower	3,000	3,050	1.7

Source: Ministry of Agriculture; PRS.

The MSPs for the Kharif season were announced in June 2014.<sup>45</sup> MSPs for paddy were raised by about 4%, for Jowar by 2%, and for cotton by 1.3%.

**Table 12: Kharif crops MSPs (in Rs/quintal)**

Crop	MSP 2013-14	MSP 2014-15	% change
Paddy - Common	1,310	1,360	3.8
Jowar - Hybrid	1,500	1,530	2.0
Bajra	1,250	1,250	0.0
Maize	1,310	1,310	0.0
Tur (Arhar)	4,300	4,350	1.2
Groundnut	4,000	4,000	0.0
Cotton - Long Staple	4,000	4,050	1.3

Sources: Ministry of Agriculture, Commission for Agricultural Costs and Prices; PRS.

The Cabinet Committee on Economic Affairs (CCEA) approved a Fair and Remunerative Price (FRP) to be paid by sugar mill owners in January 2015.<sup>46</sup> The price has been fixed at Rs 230/quintal, an increase of Rs 10 over the 2014-15 season. FRP is the minimum price that mill owners will have to pay sugarcane farmers, and ensures a guaranteed price to sugarcane farmers.

### CCEA revises buffer norms for food grains

Cabinet Committee on Economic Affairs (CCEA) approved the revision of buffer norms for food grains in January, 2015.<sup>47</sup> The buffer norms indicate the quantity of food grains to be stored as buffer stocks in the central pool. These buffer norms were last changed in 2005.

**Table 13: Buffer norms (in million tonnes)**

As on	Current norms	Revised norms	% Change
1 <sup>st</sup> April	21.2	21.0	-0.8
1 <sup>st</sup> July	31.9	41.1	28.9
1 <sup>st</sup> Oct	21.2	30.8	45.1
1 <sup>st</sup> Jan	25.0	21.4	-14.4

Sources: Ministry of Consumer Affairs, Food and Public Distribution; PRS.

In case the stocks in the central pool are more than the prescribed norms, the Department of Food and Public Distribution will release the excess stocks through open sale or exports. An Inter-Ministerial Group was also constituted in order to better manage the food stocks in the country.

### Operational Guidelines for Price Stabilisation Fund

A Price Stabilisation Fund for horticultural commodities was announced in the Union Budget

speech in July 2014.<sup>48</sup> Operational guidelines for the same were released by the Ministry of Agriculture in March 2015.<sup>49</sup> The Fund is envisaged to provide working capital to farmers and control price volatility of stocks. The scheme is to be implemented from 2015-16 to 2016-17, with the possibility of continuation. Key aspects of the scheme are:

- **Objectives:** (i) to protect farmers from distress sales of selected horticultural commodities, (ii) maintain a buffer stock to discourage hoarding of commodities, and (iii) control the release of stocks and their distribution, in order to supply commodities at reasonable prices.
- **Creation and management of Corpus Fund:** A Corpus Fund for Procurement and Distribution of Identified Horticultural Commodities will be created, to be worth Rs 500 crore. It will be used for price stabilization in context of potatoes and onions, to be extended to other crops later.
- The Fund will provide interest free working capital advances to state governments, various state agencies, central agencies such as the Small Farmers Agri-business Consortium, National Agricultural Cooperative Marketing Federation of India, etc.
- The Fund will be managed by the Price Stabilization Fund Management Committee (PSFMC). PSFMC will: (i) manage proposals received from agencies, (ii) determine the amounts to be given as advances, (iii) take decisions regarding investing surplus in the Fund, and (iv) monitor the recovery of advances made by the Fund.
- **Method of procuring working capital from the Fund:** Agencies wanting advances from the Fund will submit project specific proposals to PSFMC. The proposals should include, among other details, the need for interventions, relevant production data and estimated cost of production, as well as the methodology of procurement of stocks.

## Consumer Affairs

### Draft Essential Commodities (Amendment) Bill, 2014

The draft Essential Commodities (Amendment) Bill, 2014 was released by the Ministry of Consumer Affairs, Food and Public Distribution in July 2014.<sup>50</sup> The Bill seeks to amend the Essential Commodities

Act, 1955. The Act regulates the production, supply and distribution of certain commodities. Key amendments proposed in the draft Bill are:

- **Definition of foodstuff:** The Bill adds a definition of ‘foodstuff’ as any substance, whether perishable or non-perishable, which is used as a final food product by human beings. It also includes raw food articles which may be used as food by human beings, after processing.
- **Trading of commodities:** The Bill seeks to ban the trading of essential commodities, including specific foodstuffs, in future markets except the items that have been specifically exempted.
- **Confiscation:** No animal, vehicle, vessel or other conveyance carrying an essential commodity will be confiscated if it can be proved to the Collector that it was done without the knowledge of the owner, and that that owner had taken all necessary precautions against the use of his vehicle.
- **Nature of offences:** All offences punishable under the Act are to be cognizable as well as non-bailable. No officer below the rank of an officer-in-charge, or authorized by an officer-in-charge should be allowed to arrest a person for an offence committed under the Act.
- The Bill also seeks to establish Special Courts to conduct trials for offences under the Act.

### Draft Prevention of Black Marketing of Supply of Essential Commodities (Amendment) Bill, 2014

The draft Prevention of Black Marketing of Supply of Essential Commodities (Amendment) Bill, 2014 was released by the Ministry of Consumer Affairs, Food and Public Distribution in July 2014.<sup>51</sup>

The draft Bill seeks to amend the Prevention of Black Marketing and Maintenance of Supply of Essential Commodities Act, 1980. The Act provides for the detention of people who engage in activities which are against the maintenance of supply of some essential commodities.

The amendments are regarding the procedure for detaining a person for offences committed under the Act. The proposed amendments include:

- A detaining order made by an officer empowered for that purpose should remain in force with the state government for 15 days after it has been made. This limit is 12 days in the Act.

- A detainee or any person including a relative or an advocate on behalf of the detainee may make a representation to the central government only after the detention order has been confirmed by the state government. Such a provision is not given in the Act.
- A person should not be detained for more than 12 months from the date of detention, in accordance with a detention order issued by the Advisory Board. This period is a maximum of six months in the Act.

### Draft amendments to the Consumer Protection Act, 1986

The Ministry of Consumer Affairs, Food and Public Distribution released draft amendments to the Consumer Protection Act, 1986 in November 2014.<sup>52</sup>

The Act establishes consumer councils and other authorities to settle consumers’ disputes. The amendments propose to establish a Central Consumer Protection Authority, and a Consumer Mediation Cell for resolving disputes. Key amendments include:

- The definition of a manufacturer will be broadened to include any person who sells, distributes, leases, installs, or is otherwise involved in launching a product.
- A Central Consumer Protection Authority will be established, to protect and enforce the rights of consumers, and prevent unfair trade practices.
- The Authority will have the power to conduct investigations into violation of consumer rights (suo-motu or on complaint), issue safety notices and alerts to consumers against unsafe goods or services, declare consumer contracts found to be unfair to the consumer as null or void, and impose a penalty on anyone found to be violating provisions of the Act.
- Consumer Disputes Redressal Agencies at the national and state levels will be established. These would be called the National Forum and State Forums and would replace the existing National Commission and State Commissions.
- A Consumer Mediation Cell will be established, and mediation is proposed as an alternate dispute redressal mechanism between the district forum and the mediator.
- A new chapter on product liability will be added. Product liability means the manufacturer’s responsibility to compensate for injury caused by defective merchandise that has been provided for sale. Issues such as exemption from liability,

liability of product sellers, remedial measures and product identification requirement will be introduced under the Act.

### **Draft Amendments to the Legal Metrology Act, 2009 released**

The Ministry of Consumer Affairs, Food and Public Distribution released draft amendments to the Legal Metrology Act, 2009 in August 2014.<sup>53</sup>

The Act establishes standards of weights and measures, and regulates trade and commerce in weights, measures and other goods. The amendments seek to modify certain penalties for the quoting or selling of non-standard units and packages. Key proposed amendments include:

- Under the Act, the penalty for quoting or publishing of non-standard units and packages is a fine of up to Rs 10,000 for the first offence, and imprisonment of up to one year and/or fine for subsequent offences. The penalty for the second offence is proposed to be changed to a fine of up to Rs one lakh and no imprisonment is specified.
- Under the Act, the penalty for using unverified weights or measures is Rs 2,000 to Rs 10,000. This penalty is proposed to be changed to Rs 200 for beam scale, counter machine, and commercial weights up to 20 kg and other mechanical weighting and measuring instruments up to 100 kg.
- The maximum penalty for selling of non-standard packages is proposed to be increased from Rs one lakh to Rs five lakh in the Bill.

### **Draft amendments to Bureau of Indian Standards Act, 1986 released**

Draft amendments to the Bureau of Indian Standards Act, 1986 were released by the Ministry of Consumer Affairs, Food and Public Distribution in October 2014.<sup>54</sup> The Act establishes a Bureau of Indian Standards for the development of standardisation, marking and quality certification of goods.

The draft amendments relate to ensuring the quality and standards of goods and services under the Act. Key proposed amendments include:

- Conformity assessment is defined as the procedure used to determine whether specified requirements in relation to goods, service, article, processes, etc., have been fulfilled.
- A new section will be added on quality assurance, promotion, monitoring and management. Steps to be taken by the Bureau under this section will include:
  - (i) Market surveillance of goods, services, and processes to monitor their quality.
  - (ii) Promotion of quality by educating consumers and the industry about quality and standards regarding goods and services.
  - (iii) Recognizing any institution which is engaged in conformity certification and inspection of goods and services.
- Under the Act, Indian Standard has been defined as the standard established by the Bureau, in relation to any article or processes regarding the quality and specifications of the article or process. The amendments propose to add goods and services under the definition of Indian Standards, and include them under the purview of the BIS.
- The central government may notify precious metals and other goods and articles, to be marked by a standard mark. Notified goods and articles are proposed to be sold only through retail certified by the Bureau.
- Under the Act, an offence committed was not cognizable unless it is on a complaint by a government or Bureau authority. The amendments propose that any police officer at or above the rank of Deputy Superintendent of police should also be allowed to seize goods without a warrant, if he is satisfied that offences under the Act have been committed.

## Infrastructure

### Coal

#### Supreme Court cancels allocation of coal blocks

The Supreme Court, in August 2014, held the allocations of coal blocks made through the Screening Committee and the government dispensation route, from 1993 to 2011, to be illegal.<sup>55</sup> In September 2014, out of the 218 blocks under consideration, the Court cancelled the allocation of 204 blocks.<sup>56</sup>

The Court held the allocations as illegal on the grounds that: (i) the allocation procedure followed by the Screening Committee was arbitrary; and (ii) no objective criterion was used to determine the selection of companies. Further, the allocation procedure was held to be impermissible under the Coal Mines Nationalisation Act, 1973.

Among the 218 coal blocks, 40 were under production and six were ready to start production. Of the 40 blocks under production, 37 were cancelled and of the six ready to produce blocks, five were cancelled. However, the allocation to Ultra Mega Power Projects, which was done via competitive bidding for lowest tariffs, was not declared illegal.

All the allottees were directed to pay an additional levy of Rs 295 per metric ton of coal extracted from the date of extraction. This payment was to be made by December 31, 2014. Coal extracted between December 31, 2014 and March 31, 2015 would also attract this levy.

As per the central government, Coal India Limited (CIL) would take over the production of the mines currently producing coal/ ready to produce coal. The cancellation was to take effect from March 31, 2015, giving CIL and coal block allottees time to manage their affairs.

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

The Coal Mines (Special Provisions) Bill, 2015 was passed by Parliament in March 2015.<sup>57</sup> The Bill replaced the Coal Mines (Special Provisions) Second Ordinance, 2014.<sup>58</sup>

Following the Supreme Court judgment, the government promulgated the Coal Mines (Special Provisions) Ordinance, 2014 in October 2014 to allocate the cancelled coal mines. The Ordinance was replaced by the Coal Mines (Special Provisions)

Bill, 2014. However, since the Bill could not be passed by Parliament during the 2014 winter session, the Ordinance lapsed. The government then promulgated the Coal Mines (Special Provisions) Second Ordinance, 2014 in December 2014. The Bill amends 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 primarily seeks to allocate the coal mines cancelled by the Supreme Court. It also 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, who must be an officer of the rank of a Joint Secretary.

The Ministry of Coal notified the Coal Mines (Special Provisions) Rules, 2014 in December 2014. The Rules provide guidelines on the eligibility and compensation for prior allottees.

As of March 2015, 33 Schedule II and Schedule III coal mines/blocks have been auctioned, under the enabling provisions of the Ordinance.<sup>59</sup> The government has estimated the revenue generated from these auctions at Rs 2,09,740 crore.

Rajya Sabha had referred the Bill to a Select Committee in March 2015, which submitted its report within seven days. The Committee suggested no changes to the Bill. Parliament passed the Bill without any amendments.

#### CCI holds Coal India guilty of anti-competitive behaviour

The Competition Commission of India (CCI) held Coal India Ltd (CIL) guilty of misusing its dominant position in April 2014.<sup>60</sup> In 2013, Sponge Iron

Manufacturers Association and state utilities from Madhya Pradesh and West Bengal filed separate cases against Coal India and its subsidiaries, alleging imposition of unfair and discriminatory conditions in Fuel Supply Agreements (FSAs).

In December 2013, CCI had found CIL guilty of similar anti-competitive behaviour in cases filed by Maharashtra and Gujarat state utilities and imposed a fine of Rs 1,773 crore.<sup>61</sup> It had then held that certain provisions of FSAs were in contravention of the Competition Act, 2002.

In its April 2014 order, CCI additionally found the following provisions of FSAs in violation of the Competition Act, 2002: (i) grading of coal for non-power sector buyers, (ii) sampling and testing procedure for non-power sector buyers, (iii) compensation for supply of oversized coal/stones, and (iv) imposition of a Memorandum of Understanding in addition to FSAs. CCI asked CIL and its subsidiaries to cease and desist from such conduct and modify the FSAs accordingly. It did not impose any new penalty on CIL.

### Report on Roadmap for Reduction in Import Dependency in the Hydrocarbon Sector released

The central government had constituted a Committee (Chair: Mr. Vijay Kelkar) to prepare a roadmap for enhancing domestic oil and gas production and for sustainable reduction in import dependency by 2030. The Committee submitted its final report in September 2014.<sup>62</sup>

Key recommendations of the Committee include:

- Expediting appraisal of Indian basins should be done through: (i) the creation of a National Data Repository, (ii) the introduction of an Open Acreage Licensing Policy at the earliest, (iii) providing operators with flexibility in completion of Minimum Work Programme, and (iv) giving companies the Right of First Refusal (ROFR) as an incentive for conducting basin appraisal. ROFR is the contractual right of a company to enter into a business transaction before anyone else can, and if they refuse, bidding for the asset can be opened up to other interested parties.
- Enhancing domestic production of oil and gas by: (i) developing a production sharing contract model instead of the revenue sharing contract model and subsequently bringing in administrative reforms and contract stability, (ii) removing subsidy burden on exploitation of

mature oil fields, and (iii) encouraging coal gasification, which can provide an important non-conventional source of oil and gas.

- Bringing in institutional reforms by: (i) constituting an empowered cabinet committee on energy for policy formulation, (ii) transforming and empowering the Directorate General of Hydrocarbons to become an independent regulator, and (iii) undertaking fiscal reforms such as including oil and gas under the recently proposed Goods and Services Tax framework.
- Creating a roadmap for transition to market-determined gas pricing by 2017 or the next pricing period, by: (i) undertaking both demand and supply side measures, such as providing transparent and targeted subsidies, and encouraging trading of contracts for gas on the commodity exchanges in the country, and (ii) abolishing the gas allocation policy.

## Mining

### 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 in March 2015.<sup>63</sup> The Bill replaces the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, which was promulgated in January 2015.<sup>64</sup> The Bill amends the Mines and Minerals (Development and Regulation) Act, 1957, which regulates the mining sector in India.

The key features of the Bill include:

- 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.

- The Bill also provides for the creation of a District Mineral Foundation (DMF). The DMF shall be established by state governments and it shall work for the benefit of people in districts affected by mining related operations.

Rajya Sabha had referred the Bill to a Select Committee in March 2015, which submitted its report within seven days. The Committee made the following recommendations:

- When making rules with regard to the DMF, 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.

Parliament passed the Bill without any changes. For more details on the Bill, see our website.<sup>63</sup>

### Supreme Court allows resumption of iron ore mining in Goa; places cap on output

In April 2014, the Supreme Court lifted the ban on iron ore mining in Goa, subject to an interim annual production limit of 20 million tonnes.<sup>65</sup> The state government had placed a ban on iron ore mining and transportation in September 2012 due to concerns regarding adverse impact of illegal mining. In the same month, the Ministry of Environment and Forests (MoEF) had decided to suspend environmental approvals granted to all mines in Goa.

Iron ore mining concessions awarded by the Portuguese administration in Goa were converted into mining leases under the Mines and Minerals (Development & Regulation) Act, 1957 in 1987. The Court held that these leases expired in 1987 and could have been extended only till 2007. Hence, any mining after 2007 on such leases was illegal. The miners will have to obtain new mining leases from the state government and environmental approvals from MoEF to restart iron ore mining.

The Court asked the state government to formulate a policy to award fresh leases to such miners. It also asked MoEF to notify eco-sensitive zones around the national park and wildlife sanctuaries of Goa.

### Government notifies new rates of royalty and dead rent for certain minerals

The government notified the revised rates of royalty and dead rent on major minerals (except coal, lignite and sand) in September 2014.<sup>66</sup> In August 2014, CCEA had approved revision in the rates of royalty and dead rent of all major minerals except coal, lignite and sand.<sup>67</sup>

The government expects the decision to result in 41% rise in royalty received by mineral rich states to Rs 13,274 crore. CCEA also approved the application of these rates to all states and union territories, including West Bengal. West Bengal has not benefitted from the revision in royalty rates since 1987, as it levies a cess on mineral bearing lands.

A mine leaseholder has to pay a royalty linked to the mineral production. If no production is being carried out, the leaseholder has to pay a dead rent linked to the area of the lease. The central government can revise the rates of royalty and dead rent for major minerals every three years. The last revision happened in 2009.<sup>68</sup> The following Table highlights the new and old rates of royalty for select minerals:

**Table 14: Royalty rates for select minerals**

Mineral	Major users	New rate	Old rate
Rock Phosphate	Fertiliser, Chemicals	6.0-12.5%	6.0-11.0%
Bauxite and Laterite * #	Aluminium production	0.60%	0.50%
Chromite	Ferro-alloys, Refractory	15.00%	10.00%
Copper ore #	Copper production	4.62%	4.20%
Dolomite (Rs/tonne)	Iron & steel, Cement, Glass/Ceramic, Paint	75	63
Gold ore #	Gold production	3.3-4.0%	2.0-3.3%
Graphite	Refractory/crucible, Battery, Iron & steel	Rs 25-225/tonne	2.0-12.0%
Iron ore	Iron & steel, Cement	15.00%	10.00%
Lead ore #	Lead production	8.5-14.5%	7.0-12.7%
Limestone (Rs/tonne)	Cement, Iron & steel, Chemicals, Fertiliser	80-90	63-72
Manganese ore	Manganese alloys, Iron & steel, Battery	5.00%	4.20%
Zinc ore #	Zinc production	9.5-10.0%	8.0-8.4%

Note: Royalty rates expressed as percentage of sales price unless indicated otherwise; \* For aluminium production within India only; # Royalty is based on London Metal Exchange or London Bullion Market benchmark prices. Sources: Ministry of Mines; Indian Bureau of Mines; PRS.

## Power

### The Electricity (Amendment) Bill, 2014 introduced

The Electricity (Amendment) Bill, 2014 was introduced in Lok Sabha in December 2014.<sup>69</sup> The Bill amends the Electricity Act, 2003. The Bill was referred to the Standing Committee in December 2015 for examination, the report of which is expected in July 2015.

The Bill seeks to segregate the distribution network from the electricity supply business. Key features of the Bill include:

- **Segregation of distribution and supply:** Under the Act, the distribution licensee both distributes and supplies electricity to the consumers. Under the Bill, the distribution licensee will provide for the distribution of electricity and enable the supply of electricity. The Bill creates a supply licensee who would be authorised to supply electricity to the consumers. The Bill also provides for the transfer of license and power purchase agreements from the distribution licensee to the supply licensee.
- **Supply:** The appropriate commission (Central or State Regulatory Commission) may grant a license to multiple suppliers for supply within the same area of supply. The Bill enables consumers to choose to buy electricity from several supply licensees. Consumers can also switch suppliers by giving a notice.
- **Tariff:** The appropriate commission shall determine the tariff for distribution of electricity. The method and principles of determining tariff for supply shall be specified by the State Regulatory Commission. The prices shall be market determined subject to a ceiling price that shall be announced by the Commission.
- **National Renewable Energy Policy:** The Act provides for a National Electricity Policy. The Bill seeks to provide for an additional National Renewable Energy policy.
- **Penalties:** The Bill increases the penalties for licensees for failure to comply with directions of the appropriate commission. Penalties for all companies will increase from Rs 15 lakh to Rs 10 crore at the central level and from Rs five lakh to Rs one crore at the state level. For companies generating renewable energy, the penalty will be Rs one crore and Rs 10 lakh at the central and state levels respectively.

### Report of the Expert Group on Low Carbon Strategies for Inclusive Growth

The Expert Group on Low Carbon Strategies for Inclusive Growth (Chairperson: Mr. Kirit Parikh) submitted its report to the Planning Commission.<sup>70</sup> The Expert Group was tasked with drawing a roadmap for low carbon growth.

Key recommendations of the Expert Group include:

- **Targets for 2030:** Advanced technology based plants should constitute at least 50% of coal based generation capacity (as opposed to their negligible proportion at present). The capacity of hydroelectric, wind, solar and nuclear power should rise 74%, 5.3 times, 62 times and 7.3 times versus their FY 2012-13 levels. All vehicles should comply with Euro VI emission standards (vs. Euro-III/IV standards applicable currently). The Planning Commission should monitor these targets on a yearly basis.
- **Carbon/energy cess:** A cess equivalent to the coal cess (currently levied at the rate of Rs 50/tonne) should be extended to all fossil fuels, with an adjustment for the carbon content. An energy efficiency fee should be levied on industrial units.
- **Renewable energy:** Incentives for renewable power projects should vary with actual generation (currently incentives are fixed) and should be paid on a timely basis. All states should adopt uniform obligations for purchase of power from renewable sources by electricity distribution utilities.

### Deendayal Upadhyaya Gram Jyoti Yojana launched

The Deendayal Upadhyaya Gram Jyoti Yojana was launched by the Ministry of Power in December 2014.<sup>71</sup> The scheme seeks to improve the supply of electricity in rural areas. This scheme will replace the Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY).

- **Components:** Components of the scheme include: (i) separation of agricultural and non-agricultural electricity feeders to improve supply for consumers in rural areas, (ii) improving sub-transmission and distribution infrastructure in rural areas, and (iii) electrification of rural areas by carrying forward RGGVY targets.
- **Outlay:** Total outlay for the scheme over the implementation period (until 2021-22) will be Rs

82,308 crore which will include budgetary support of Rs 68,900 crore.

- **Eligibility:** All discoms including the power sector discoms and state power departments will be eligible for financial assistance.
- **Funding:** The government will provide 60% of the project cost as grant, discoms will raise 10% as their own funds, and 30% will be borrowed from financial institutions and banks. The government may provide additional assistance of 15% subject to achievement of a few targets such as the timely completion of projects.
- **Authorities:** The Rural Electrification Corporation Limited will be the nodal agency for the implementation of the scheme. A monitoring committee will approve operational guidelines prepared by the nodal agency and also monitor the scheme. The Committee will be chaired by the Secretary, Ministry of Power. A project management agency will be appointed to ensure the timely implementation of the project.

## Petroleum and Natural Gas

### Deregulation of diesel prices and revision of gas prices

The Cabinet Committee on Economic Affairs decided to make the price of diesel market-determined, in October 2014.<sup>72</sup>

In addition, a new domestic gas pricing policy was approved.<sup>73</sup> This includes:

- A modified Rangarajan formula, whereby the upward revision in price will be 75% less compared to the price determined by the original Rangarajan formula.
- The price shall be notified on a half yearly basis, and the price notified will be on Gross Calorific Value basis.
- A premium on the gas price will be provided for discoveries in Ultra Deep Water Areas, Deep Water Areas and High Pressure-High Temperature Areas.
- Subsidy for gas supplied to the North East Region will continue, and this subsidy should also be provided to private operators.
- The D1 and D3 blocks of the Krishna- Godavari Deep Water Offshore Block (KG-DWN-98-3), operated by Reliance Industries Limited, are under arbitration. Thus the operators will be

paid the earlier price (USD 4.2/mmbtu) till the shortfall quantity of gas is recovered. The difference between the revised and present prices will be credited to an account maintained by GAIL. Whether the amount is payable to the operator of this block or not will depend on the outcome of the ongoing arbitration.

### Modified Direct Benefit Transfer Scheme re-launched

The Modified Direct Benefit Transfer Scheme in LPG was re-launched in 54 districts in November 2014, with the rest to follow in January 2015.<sup>74,75</sup>

The modified scheme has the following features:

- Under the modified scheme, persons without Aadhaar will also receive the LPG subsidy. Subsidies will be credited directly to the bank accounts.
- There will be a grace period of three months for consumers to join the scheme, during which the consumer will receive the cylinders at subsidised prices as before.
- After the grace period, if the consumer does not join the scheme, there is an additional three month parking period. During this period the consumer will pay market price, but the subsidy due on all cylinders will be credited to the bank account of the consumer as soon as the consumer joins the scheme.
- A revamped grievance redressal system will be put in place.

### Kerosene (Restriction on Use and Fixation of Ceiling Price) Amendment Order, 2015

The central government released the Kerosene (Restriction on Use and Fixation of Ceiling Price) Amendment Order, 2015, in January 2015.<sup>76</sup> The Order amends the Kerosene (Restriction on Use and Fixation of Ceiling Price) Order, 1993. It regulates the use, pricing and distribution of kerosene.

The amendment defines Public Distribution System (PDS) and non-PDS kerosene. Non-PDS kerosene refers to all kerosene other than PDS kerosene.

The amendment allows parallel marketeers to package and sell non-PDS kerosene. A parallel marketeer means any person, firm, co-operative society or organisation engaged in a parallel marketing system. A parallel marketing system is a system other than the PDS, under which a person: (i) imports kerosene or procures indigenously produced kerosene, or (ii) stores, (iii) transports, (iv) packs, (v)

distributes or sells imported or indigenously produced kerosene, under his own arrangement. The amendment also removes the requirement for assessment and certification of parallel marketeers.

## Railways

### Railways Budget presented in Parliament

After the formation of the 16<sup>th</sup> Lok Sabha, the Railways Budget was presented in July 2014 and then again in February 2015.<sup>77,78</sup>

#### Key financial highlights

**Table 15: Railways Budget (in Rs crore)**

	Budgeted 2014-15	Budgeted 2015-16
Plan Outlay	65,445	1,00,011
Revenue	1,64,374	1,88,557
Expenditure	1,49,176	1,63,480
Surplus(after dividends)	6,064	6,987
Operating Ratio	92.5%	88.5%

Sources: Railways Budget documents; PRS

#### Key policy highlights

##### Budget 2014-15:

- Strategic management initiatives included Near Plan Holiday approach (i.e., not taking up new projects), and prioritising and completing ongoing projects.
- In June 2014, the Ministry hiked freight rates and passenger fares.<sup>79</sup> Passenger fares were increased by 14.2% which was inclusive of 4.2% Fuel Adjustment Component (FAC). Freight rates were increased by 6.5% (inclusive of 1.5% FAC). The FAC will be linked to fuel prices to insulate the revenue from increase in fuel cost.<sup>80</sup>

##### Budget 2015-16:

- A total investment of Rs 8.56 lakh crore is proposed over the next 10 years. Of this the largest share will go towards decongestion and expansion of the network.
- No new trains were announced. New trains and increase in frequency of trains will be announced later in the session, post a review.
- Key thrust areas include: (i) improving quality of life in train journeys, (ii) technology upgradation, (iii) station redevelopment, (iv) building partnerships for development, (v)

improvements in management processes and systems, and (vi) resource mobilisation.

For details, see the PRS analyses of both the Railways Budgets.<sup>81</sup>

### Railways (Amendment) Bill, 2014 introduced

The Railways (Amendment) Bill, 2014 was introduced in Lok Sabha in August 2014.<sup>82</sup> It seeks to amend the Railways Act, 1989. The Bill was referred to the Standing Committee on Railways in September 2014.

The Bill seeks to prevent people from filing multiple claims from the Railways for accidents. Key features of the Bill are:

- Filing of claims:** Under the Act, claims can be filed with the Railways Claims Tribunal having jurisdiction over the place: (i) where the ticket was purchased, (ii) where the accident occurred, or (iii) at the destination station. The Bill adds a proviso to this clause, making the railway administration where the accident occurred, a party before the Tribunal, for all cases.
- Accidental falling:** Under the Act, accidental falling of a passenger from a train was included in the definition of ‘untoward incident’. The Bill removes accidental falling from ‘untoward incidents’. It defines it separately to exclude cases of falling from a moving train when: entering a train, standing near train door, on foot board/ rooftop, or endangering safety of others wilfully or through neglect.
- Liability and compensation:** Under the Act, Railways administration pays compensation, irrespective of fault, for untoward incidents. Compensation is not payable for: (i) suicide, (ii) criminal acts, (iii) acts committed in a state of intoxication, or (iv) natural or medical causes. Under the Bill, compensation in case of accidental falling will not be given for cases of passenger negligence, suicide attempt, self-inflicted injury, criminal acts and acts committed in a state of intoxication/ insanity.
- Burden of proof:** Under the Act, the onus of proving a case of untoward incident, including accidental falling, is not on passenger. Under the Bill, for cases of accidental falling due to passenger negligence, passenger has to prove he took reasonable care to avoid accident.

For more details, please see the PRS analysis.<sup>83</sup>

## Central government permits FDI in Railways in select activities

The central government permitted Foreign Direct Investment (FDI) in Railways in select activities in August 2014.<sup>84</sup> Earlier, FDI was prohibited in all Railways transport except mass rapid transit. This has been changed to allow 100% FDI in activities such as: (i) suburban corridor projects through Public Private Partnerships, (ii) high speed train projects, (iii) dedicated freight lines, (iv) rolling stock, (v) passenger terminals, and (vi) mass rapid transit systems, etc.

The equity cap for FDI is approved at 100% and the entry route is automatic (i.e., pre-approved). However, the equity cap will be subject to sectoral guidelines of the Ministry of Railways. In addition, FDI beyond 49% in sensitive areas with respect to security will be considered separately by the Cabinet Committee on Security.

## White paper on Indian Railways released

The Railways Minister released a White Paper on Indian Railways in February 2015.<sup>85</sup> The Paper highlights the challenges faced by the organisation and is the first in a series of three documents. The second document is the Railways Budget 2015-16 and the third will be a Vision 2030 document which will be released later in 2015.

Key findings of the paper include:

- **Project planning and implementation:** Congestion on High Density Networks and feeder routes requires network decongestion and expansion. At current levels of funding, all works related to such expansion will be completed in the next 7 to 10 years. Speedy construction of infrastructure is being met by requesting funding from state governments and executing projects through Special Purpose Vehicles.
- **Safety:** Highest numbers of fatalities in Railways occur due to accidents at unmanned level crossings. These can be minimized by constructing Railways over/ under Bridges.
- **Customer engagement:** Major issues with passenger satisfaction include long transit times, lack of cleanliness at stations, and poor reservation facilities. Major issues with freight customers include lack of availability of suitable loading and unloading terminals, and poor transit times of freight trains.

- **Finances:** The declining share of internal resources has meant increasing reliance on borrowings as well as Gross Budgetary Support, which adversely impacts the expenditure. Railways also bear a social service obligation of around Rs 25,000 crore every year by carrying passenger services below cost. Hence, alternate means of resources are required for funding of bankable projects.
- **Alternate financing options:** Absence of regulatory mechanisms, no control over network and tariff, un-certainty of traffic materialization and delay in processes has hindered private sector participation in Railways operations. Railways would be required to lay down certain benchmarks for appraisal which would be acceptable to the market to enable the relevant projects to be financed. The Engineering, Procurement and Construction (EPC) mode of contracting should be adopted for construction of Railways projects.

## Roads

### Motor Vehicles (Amendment) Bill, 2015 passed

The Motor Vehicles (Amendment) Bill, 2015 was passed by Parliament in March 2015.<sup>86</sup> The Bill replaced the Motor Vehicles (Amendment) Ordinance, 2015 that was promulgated in January 2015.<sup>87</sup>

In June 2014, the Ministry of Road Transport and Highways had proposed a new scheme for e-rickshaws in order to legalize them.<sup>88</sup> In July 2014, following a petition, the Delhi High Court had banned the plying of e-rickshaws because they were not registered, they did not have permits and any insurance cover.<sup>89,90</sup> Following the High Court's ban on e-rickshaws, the Ministry notified the Central Motor Vehicle (Sixteenth Amendment) Rules, 2014 in October 2014.<sup>91</sup> The amendment Rules sought to regulate e-rickshaws and e-carts and bring them under the ambit of the Motor Vehicle Act, 1988. Subsequently the Motor Vehicles (Amendment) Ordinance, 2015 was promulgated.

The Bill replacing the Ordinance amends the Motor Vehicles Act, 1988 to bring e-carts and e-rickshaws under the ambit of the Act.

Key features of the Bill include:

- The Bill defines e-carts and e-rickshaws as special purpose battery powered vehicles, having

three wheels, 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, please see the PRS analysis.<sup>92</sup>

### Draft Road Transport and Safety Bill, 2014 released

The Ministry of Road Transport and Highways released the draft Road Transport and Safety Bill, 2014 in September 2014.<sup>93</sup> The Ministry circulated a revised version of the draft Bill in 2015.<sup>94</sup> The draft Bill proposes to replace the Motor Vehicle Act, 1988.

Key highlights of the draft Bill are as follows:

- **New regulatory authority:** Establishes the Motor Vehicle Regulation & Road Safety Authority of India, which will be an independent agency for vehicle regulation and road safety. This authority will replace the existing Regional Transport Offices.
- Establishes a National Road Transport & Multimodal Coordination Authority which will develop a National Road Transportation Plan.
- **New policy:** Introduces a Goods Transport & National Freight Policy for simplified permits and single portal clearances.
- Creates a Motor Accident Fund for immediate relief to accident victims.
- **Centralized database systems:** Creates a New Unified Driver Licensing System that will use a unified biometric system to avoid duplication of licenses.
- Establishes a New Unified Vehicle Registration System that puts manufacturers, owners, transport authorities, insurers, and enforcement agencies all under one system.
- Introduces a Unified Road Accident and Offences System that uses a combination of penalty and fines to enforce traffic rules.

- **Penalties:** The penalties have been increased from those in the Motor Vehicles Act, 1988. For example, under the general provision for punishment of offences, fine for the first offence will be increased to Rs 2,500 from Rs 100 and to Rs 5,000 from Rs 300 for subsequent offences.

## Shipping

### The Merchant Shipping (Amendment) Bill, 2013 and Merchant Shipping (Second Amendment) Bill, 2013 passed

The Merchant Shipping (Amendment) Bill, 2013 and the Merchant Shipping (Second Amendment) Bill, 2013 were passed by the Parliament in December 2014.<sup>95,96</sup> Both the Bills amend the Merchant Shipping Act, 1958.

#### Merchant Shipping (Amendment) Bill, 2013

Key features of the Bill as passed include:

- **Inspection:** Any person authorised as a Surveyor by the Director-General of Shipping may inspect the ships.
- **Power to make rules:** The central government's power to make rules will include making rules on: (i) standards, requirements and measures to ensure compliance with the Anti-Fouling Systems, (ii) procedure and fee for inspection and issuance of Anti-Fouling Systems Certificate for Indian and foreign ships, and (iii) procedure for collecting, handling and disposal of wastes.
- **Penalties:** The amendments increase the amount of penalties, such as: (i) failing to comply with the requirements of the Anti-Fouling Systems may be up to Rs 15 lakh for an Indian ship, (ii) attempting to proceed to sea without the Anti-Fouling Systems Certificate may be up to Rs three lakh, (iii) failing to comply with the rules for control of waste materials may be up to Rs 1.5 lakh, (iv) failing to maintain records of Anti-Fouling Systems may be up to Rs 1.5 lakh, and (v) failing to comply with inspection of ship and verification of records may be up to Rs 1.5 lakh.

For more details, please see the PRS analysis.<sup>97</sup>

#### Merchant Shipping (Second Amendment) Bill, 2013

Key features of the Bill as passed include:

- **Declaration of Maritime Labour Compliance:** The declaration of Compliance, which states that the ship meets the requirements of the Maritime

Labour Convention, can be issued by the Director-General of Shipping or by any officer, authority or organisation authorised by him.

- **Agreement with seafarers:** The terms of agreement with the crew shall be determined after consultation with Indian organisations with a large representation of the seamen and their employers. Such organisations will be notified by the central government.
- **Engaging young persons in night work:** A young person can be engaged in night work for training or performing a specific duty. Such work should not be detrimental to the person's health and should be permitted by the Director-General of Shipping.
- **Dispute resolution:** The amendments allow the Shipping Master to settle disputes between seafarers and their employers at the instance of either party for a disputed amount up to Rs five lakh. However, at the instance of either party, the central government may increase this limit up to Rs 10 lakh.

For more details, please see the PRS analysis.<sup>98</sup>

### Cabinet approves Sagar Mala Project

The Cabinet gave in-principle approval to the Sagar Mala Project in March 2015.<sup>99</sup> The Ministry of Shipping had put up a draft note on 'Sagar Mala Project' in October 2014. The project seeks to improve economic development in the country through port led development. The project would bring development of all ports, connectivity through waterways and economic development of coastal regions under the ambit of a single project.

Key components of the project include:

- **Port modernization:** This includes (i) transforming existing ports into world class ports by modernization of port infrastructure and existing systems, and (ii) enhancing the capability of Port Community System.
- **Efficient evacuation systems:** These include (i) incentivising freight transport through coastal mode, and (ii) setting up a coastal shipping promotion fund for the development of coastal shipping.
- **Coastal economic development:** Encouraging economic activity in coastal regions by development of coastal economic regions and promotion of coastal tourism.

Achievement of the above components will be driven by two broad initiatives: (i) development of coastal

economic regions, and (ii) policies to promote coastal shipping and operations in ports.

For the institutional framework, a Sagar Mala Company will be established at the national level and will be chaired by the Secretary (Ministry of Shipping). To develop each coastal economic region, a Special Purpose Vehicle would be formed with equity participation from the concerned state government and the Sagar Mala Company.

### Ministry of Shipping will issue life time licenses to Indian Ships

The Ministry of Shipping will now issue life time licenses to Indian Ships and any other ship chartered by an Indian citizen or an Indian company with a life time fee.<sup>100</sup> Earlier, licenses had to be renewed every year. The license permits an Indian ship or a ship chartered by an Indian citizen or company to be taken to sea from a port or place in India.<sup>101</sup>

The decision also allows all the five Registrars of Ships at Mumbai, Chennai, Kolkata, Goa and Cochin to issue such licenses under the provisions of the Merchant Shipping Act, 1958. The licence will expire with the certificate of Registry of the Ship.

A ship is registered by the Principal Officers of Mercantile Marine Departments of the Director General (Shipping) who are designated Registrars of Ships by the Director General (Shipping). They also now get powers to issue life time licences.

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

In March 2015, the Cabinet gave approval for a law to declare 101 identified inland waterways as national waterways.<sup>102</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.

In the last 30 years, 5 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.

## Land

### Government seeks to amend the Land Acquisition Act, 2013

In December 2014, the government issued an Ordinance to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.<sup>103</sup>

The Bill replacing the Ordinance was passed by Lok Sabha, with some changes in March 2015.<sup>104,105</sup> It is currently pending in Rajya Sabha. As the Bill could not be passed during the first half of the Budget session and the Ordinance was scheduled to lapse on April 5, 2015, the government issued the Bill as passed by Lok Sabha as another Ordinance.<sup>106</sup> This Ordinance will lapse on June 4, 2015, if not approved by Parliament.

Key features of the Ordinance are:

- It exempts five categories of projects such as defence, rural infrastructure, affordable housing, infrastructure, and industrial corridors from the certain provisions of the Act.
- These provisions are: (i) obtaining the consent of 80% land owners for private projects, and consent of 70% land owners for public-private partnerships, (ii) conducting a Social Impact Assessment (SIA), and (iii) limits on acquiring multi-cropped land.
- Before issuing a notification to exempt a project from the requirements of SIA or limits of acquisition of multi-cropped land, the government must ensure that the amount of land being acquired in is keeping with the minimum land required.
- The definition of industrial corridors, one of the five categories mentioned above includes those set up by the government or government undertakings, where land is acquired up to one kilometre on either side of the corridor.
- The Ordinance also seeks to bring the compensation, rehabilitation and resettlement provisions of 13 other laws (such as the National Highways Act, 1956 and the Railways Act, 1989), in line with the Act.

For more details, please see the PRS analyses.<sup>107,108</sup>

## Urban Development

### The Public Premises (Eviction of Unauthorised Occupants) Amendment Bill, 2014 passed by Parliament

The Public Premises (Eviction of Unauthorised Occupants) Amendment Bill, 2014 was passed by Parliament on February 24, 2015.<sup>109</sup>

The Bill amends the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.<sup>110</sup> The Act provides for the speedy eviction of unauthorised occupants from public premises, including those of government companies and corporations.

Salient features of the Bill include:

- **Definition of public premises:** The Bill seeks to include the following in the definition of public premises: (i) premises of companies where 51% or more shares are owned by the central government and partly by one or more state government, including metro properties, (ii) in relation to Delhi, premises owned by the New Delhi Municipal Council, and premises owned by the central government, state government, or jointly by both governments.
- **Process of eviction:** The Bill seeks to specify certain time limits on the process of eviction. For example, it specifies that eviction must take place within 15 days of the Estate Officer's order. This may be extended by another 15 days. Appeals to the Estate Officer's orders should be disposed off within one month, as far as possible.

For more details, please see the PRS analysis.<sup>111</sup>

### The NCT of Delhi Laws (Special Provisions) Amendment Bill, 2014 passed by Parliament

The National Capital Territory of Delhi Laws (Special Provisions) Amendment Bill, 2014 was introduced and passed by Parliament in December 2014.<sup>112</sup> The Bill seeks to amend the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011.<sup>113</sup>

The Act prohibits punitive action against certain forms of unauthorised construction till December 31, 2014. It also requires, by that date, relocation of slum dwellers, regulation of street vendors, regularisation of unauthorised colonies and village *abadi* areas, policy of farm houses constructed beyond permissible limits and policy of all other areas in line with the Master Plan for Delhi, 2021. The Bill extends this time by three years, to December 31, 2017.

The Bill extends the date by which construction should take place in order that no punitive action is taken. This date was changed from February 8, 2007 to June 1, 2014 for unauthorised colonies and village *abadi* areas.

For more details, please see the PRS analysis.<sup>114</sup>

### Foreign Direct Investment Policy in the construction development sector amended

The Union Cabinet approved amendments to the Foreign Direct Investment (FDI) policy in the construction development sector in October 2014.<sup>115</sup> The amendment allows 100% FDI under automatic route in the construction development sector. The investment will be subject to the following conditions:

- Minimum floor area of 20,000 sq ft.
- Minimum FDI of USD five million required within six months of the beginning of the project.
- The investor will be permitted to exit on completion of the project or after three years from the date of final investment, subject to development of infrastructure.
- The government may permit repatriation of FDI or transfer of stakes by one non-resident investor to another non-resident investor, before the completion of the project. These proposals will be considered on a case to case basis.
- Projects shall conform to all building and land use norms and standards.
- The Indian investee company will be permitted to sell only developed plots (plots whose trunk infrastructure has been made available).
- The Indian investee company shall be responsible for obtaining all necessary approvals from the concerned authorities.
- The concerned authority which approves the development plans will monitor compliance of the above conditions.

FDI is not permitted in an entity engaged in real estate business, construction of farm houses and trading in Transferable Development Rights. The area and capital requirements will not apply to hotels and tourist resorts, hospitals, Special Economic Zones, educational institutions, old age homes and investment by Non Resident Indians.

These requirements will also not apply to the investee/joint venture companies which commit at

least 30% of the total project cost for low cost affordable housing.

### Draft concept note for Smart Cities scheme released

The Ministry of Urban Development put up a working draft note for 'Smart Cities' scheme in October 2014.<sup>116</sup> As per the latest reports, the Ministry is expected to come up with a final version of the scheme by April 2015.<sup>117</sup>

The vision is to develop 100 smart cities by developing satellite towns of larger cities and by modernising the existing mid-sized cities. The note specifies definitions, components and features of a smart city.

Key features in the draft note include:

- **Identification:** The smart cities may be chosen from the following: (i) one satellite city of each of the cities with a population of four million people or more (nine cities), (ii) cities in the population range of one to four million people (44 cities), (iii) all state/UT capitals, even if they have a population of less than one million (17 cities), (iv) cities of tourist and religious importance (10 cities), (v) cities in the 0.2 to 1.0 million population range (20 cities), and (vi) a city developed by Delhi Development Authority that will demonstrate all characteristics of a smart city. The cities will have to attain specific benchmarks in a range of services in order to qualify as a smart city.
- **Financing:** Financing for smart cities is expected to come from the private sector with the states/cities and central government only supplementing that effort.
- **City development plan:** A Citizen Reference Framework will be developed to capture the aspirations of the residents of the city. A Smart City Reference Framework will also be evolved and cities will have to develop their Smart City Development Plan based on this framework. Each smart city will also develop their Environmental Sustainability Plan.
- **Project Management Units:** Project Management Units (PMU) will be set up at the State and Urban Local Body (ULB) level to guide the process of creating plans for smart cities.
- **Role of central government:** Central government will provide support to the states and ULBs in three forms that include: (i)

financial support, (ii) policy support and legal backing, and (iii) capacity building.

### Government announces new scheme for livelihood opportunities for the poor

The central government announced the ‘Deen Dayal Antyodaya Yojana (DAY)’ in September 2014.<sup>118</sup> The scheme proposes to increase livelihood opportunities for the poor through skill development.

The new scheme will cover all 4,041 statutory towns as compared to the previous schemes that covered only 790 cities. An amount of Rs 1,000 crore was allocated for the urban component of DAY during 2014-15. Out of this, Rs 500 crore was to be spent on skill development of over 5,00,000 urban poor.

The urban component of the scheme will focus on the following:

- Imparting skills with an expenditure of Rs.15,000 to Rs.18,000 per person;
- Promotion of self-employment through setting up individual micro-enterprises and group enterprises with interest subsidies;
- Training urban poor by imparting market oriented skills through City Livelihood Centres;
- Enabling urban poor from Self-Help Groups for meeting financial and social needs with a support of Rs. 10,000 per each group;
- Development of vendor markets; and
- Constructing permanent shelters for the urban homeless and providing other essential services.

## Telecom

### TRAI (Amendment) Bill, 2014 passed by Parliament

The Telecom Regulatory Authority of India (Amendment) Bill, 2014 replacing the 2014 Ordinance was passed by Parliament in July 2014. The Bill amended the Telecom Regulatory Authority of India Act, 1997. The Act passed by Parliament was notified in July 2014.<sup>119,120</sup>

The 1997 Act prohibited a former Chairperson or whole-time member of the TRAI from being employed with central or state governments. The Amendment Act permits a former Chairperson or whole-time member of TRAI to accept employment with central or state government or companies in the business of telecommunication services: (i) after two

years from the date they cease to hold office, or (ii) before two years with the approval of the central government. There are no restrictions regarding any other form of employment.

For more details, please see the PRS analysis.<sup>121</sup>

### 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, in March 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 total amount committed by bidders is Rs 1,09,874 crore. This is Rs 80,277 crore over the initial estimates of the Department of Telecommunications.<sup>122</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>123</sup>

### TRAI releases a consultation paper on regulation of OTT services and net neutrality

The Telecom Regulatory Authority of India (TRAI) released a consultation paper on the regulatory framework for over-the-top services in March 2015.<sup>124</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 over the past few years.

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, according to the paper.

The main issues for consultation included:

- Whether it is too early to establish a regulatory framework for OTT services and whether OTT service providers 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.

- 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 more details, please see the PRS blog.<sup>127</sup>

## Information Technology

### 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 in March 2015. The judgment related to a Public Interest Litigation (PIL) filed in 2012.<sup>125</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>126</sup>

In its judgment the Supreme Court held that:

- 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.

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

The Cabinet approved the e-Kranti or National e-Governance Plan (NeGP) 2.0 in March 2015. The programme will be implemented by the Department of Electronics and Information Technology of the Ministry of Communications and Information Technology.<sup>128</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) in March 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>129</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 of around 70 high-performance computing facilities,
- Professionally train human resources to address 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, 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.

## Media

### TRAI releases recommendations on media ownership

The Telecom Regulatory Authority of India (TRAI) released its recommendations on issues related to media ownership in August 2014.<sup>130</sup>

Some of the recommendations include:

- **Cross-media ownership:** The relevant product market should be characterized by genres (news, entertainment, etc) and segments (TV, radio, etc). News and current affairs should be considered the relevant genre in the product market, for formulating cross-media ownership rules. TV and print (only daily newspapers) should be considered as the relevant segments.

- **Choosing a metric:** Three metrics can be used to measure the influence that a media entity has in the relevant market: (i) volume of consumption; (ii) reach, and (iii) revenue. TRAI recommended that a combination of reach and volume metrics should be used for computing market share for TV and only reach for print.
- **Vertical integration:** Vertical integration means cross-holding. Broadcasters and Distribution Platform Operators (DPOs) should be separate legal entities. Vertically integrated broadcasters or DPOs should be subject to an additional set of regulations and restrictions.
- **Internal plurality:** Political, religious and government entities should be barred from entering into broadcasting and TV channel distribution sectors. Liability to be on both parties to a transaction, in case of paid news. A media regulator to deal with paid news, private treaties, etc. should be appointed.

### 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 in December 2014. 831 channels are proposed to be auctioned through an ascending e-auction process as provided in the Phase-III policy.<sup>131</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>132</sup>

- The valuation of FM Radio channels in 253 new cities has been worked out as a simple mean of three methodologies. 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 reserve prices for FM Radio channels in the 253 new cities have been recommended.
- The reserve prices in 11 border cities in the 'others' category (having a population of less than one lakh), should be Rs 5 lakh per channel. These would mainly include cities in Jammu and Kashmir and the North-Eastern region.

## Development

### Rural Development

#### Changes in Schedule I of MGNREGA

The government amended Schedule I of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (MGNREGA) in July 2014.<sup>133</sup>

Schedule I of the Act allows four major types of projects to be undertaken: (i) public works relating to natural resource management, (ii) those that create individual assets for vulnerable communities, (iii) those that create common infrastructure for Self Help Groups (SHGs) compliant with norms established by the National Rural Livelihoods Mission (NRLM), and (iv) those that create rural infrastructure.<sup>134</sup>

Amendments to Schedule I are as follows:

- 60% of the works to be taken up in districts must be for the creation of productive assets linked to agriculture and allied activities.
- The creation of community assets, in addition to individual assets, is allowed for vulnerable communities.
- The ratio of the cost of wages and the cost of materials for a project was to be maintained at 60:40 for all projects collectively at the block level. At the block level, for projects not implemented by the Gram Panchayat this ratio is flexible. At the district level, the ratio of 60:40 needs to be maintained for projects not implemented by the Gram Panchayat.

#### Swachh Bharat Mission replaces Nirmal Bharat Abhiyan

The Nirmal Bharat Abhiyan (NBA) launched in 2012, was restructured and renamed the Swachh Bharat Mission in October 2014.<sup>135</sup>

NBA was implemented in only in rural areas by the Ministry of Drinking Water and Sanitation. However, the Swachh Bharat Mission consists of two sub missions: (i) Swachh Bharat Mission (Gramin) (SBM-G), for rural areas and (ii) Swachh Bharat Mission (Urban) (SBM-U), for urban areas.

The Ministry of Drinking Water and Sanitation implements the SBM-G. The Ministry of Urban Development implements the Swachh Bharat Mission SBM-U.<sup>136</sup>

Under the SBM-G, funds are provided for: (i) construction of household toilets, (ii) construction of community sanitary complexes, (iii) solid liquid

waste management, and (iv) information, education, communication (IEC) activities.

Key changes in the SBM-G from NBA, include:<sup>137</sup>

- The amount provided for household toilets has been increased from Rs 10,000 to Rs 12,000.
- The contribution from the Mahatma Gandhi National Rural Employment Guarantee for the construction of household toilets has been stopped.
- Unlike NBA, the construction of toilets under SBM-G may be done through the Indira Awas Yojana.
- Construction of school toilets and anganwadi toilets will be the responsibility of the Department of School Education and Literacy and the Ministry of Women and Child Development, respectively. This was the responsibility of the Ministry of Drinking Water and Sanitation under NBA.

For more details, please see the PRS blog.<sup>138</sup>

#### Cabinet approves Swachh Bharat Mission for Urban Areas

The Cabinet approved Swachh Bharat Mission for Urban Areas in September 2014.<sup>139</sup> The scheme was proposed to be implemented over a period of five years from October 2014 onwards in 4,041 statutory towns (any place with a municipality, corporation, cantonment board or notified town area committee, etc.). The total expected cost of the scheme was Rs 62,009 crore, of which the proposed central assistance would be Rs 14,623 crore.

The scheme will provide for the following:

- Individual household toilets,
- Community and public toilets, and
- Municipal Solid Waste Management.

The scheme will be monitored by a National Advisory and Review Committee, headed by the Secretary, Ministry of Urban Development. The Committee will also comprise of representatives of the Ministry of Finance and other concerned ministries and will release funds for the scheme. A High Powered Committee headed by the Chief Secretary at the State level will steer the scheme.

### Saansad Adarsh Gram Yojana launched for the development of model villages

The Saansad Adarsh Gram Yojana was launched in October 2014, for the development of model villages, or Adarsh Grams.<sup>140</sup> Under the scheme, each Member of Parliament (MP) has to develop eight model villages by 2024.

MPs can select any gram panchayat, other than their own village or that of their spouse, to be developed as a model village.

A Village Development Plan must be created for each model village. While each village will develop a list of activities to be carried out, based on its own resources and requirements, possible activities have been listed in the guidelines for the scheme.<sup>141</sup> For example, model villages can work towards providing universal access to basic healthcare facilities, and promoting diversified livelihoods ensuring housing for all, etc.

For more details, please see the PRS blog.<sup>142</sup>

### RURBAN Mission launched

The Dr. Shyama Prasad Mukherji RURBAN Mission to provide urban amenities to rural areas was launched in August 2014.<sup>143</sup> The scheme, under the Ministry of Rural Development, will be modelled on the best practices of an earlier scheme, Provision of Urban Amenities to Rural Areas (PURA).

PURA was launched in 2009 and was implemented through public-private partnerships between Gram Panchayats and private sector developers on a pilot basis in certain states including Andhra Pradesh, Kerala, Maharashtra, Rajasthan, and Uttarakhand. Private sector developers could select Gram Panchayats, based on certain identified criteria, and were responsible for the provision and management of basic infrastructure and amenities in the selected area for 10 years.<sup>144</sup>

Types of amenities provided under PURA included: (i) water and sewerage, (ii) construction and maintenance of village streets, (iii) drainage, and (iv) solid waste management. Skill development was also included as an activity under PURA.

In the first phase of the RURBAN scheme, Rs 100 crore was provided for three projects in: (i) Warangal, Andhra Pradesh, (ii) Sangli, Maharashtra, and (iii) Buldhana, Maharashtra. In 2015-16, an expenditure of Rs 300 crore is proposed to be made for the scheme.

### Swachhhta Udyami Yojana launched

The Swachhhta Udyami Yojana was launched in October 2014.<sup>145</sup> The Yojana provides financial assistance to safai karamcharis and identified former manual scavengers for: (i) the construction and operation of community toilets, and (ii) the purchase of sanitation related vehicles.

Beneficiaries will be provided loans at an interest rate of 3-4% per annum. The maximum amount of loan for the construction of community toilets will be Rs 25 lakh, and for the purchase of sanitation related vehicles will be Rs 15 lakh. Identified former manual scavengers will be provided a capital subsidy of Rs 3.25 lakh.

## Environment

### High Level Committee submits its report on environmental laws

In August 2014, the Ministry of Environment, Forests and Climate Change had constituted a High Level Committee (Chair: Mr. T.S.R. Subramanian) to review certain environmental laws.<sup>146</sup> The Committee submitted its report in November 2014.

The Committee reviewed the following six laws: (i) Indian Forests Act, 1927, (ii) Wild Life (Protection) Act, 1972, (iii) Water (Prevention and Control of Pollution) Act, 1974, (iv) Forest (Conservation) Act, 1980, (v) Air (Prevention and Control of Pollution) Act, 1981, and (vi) Environment (Protection) Act, 1986.

Key recommendations of the Committee include:<sup>147</sup>

- A National Environmental Management Authority (NEMA) at the national level, and State Environmental Management Authorities (SEMAs) at the state level, should be created to grant environmental clearances and monitor compliance with conditions of approval.
- A new law, the Environmental Laws (Management) Act, should be enacted, to give legal status to NEMA and SEMA, outline penalties for non compliance with conditions of approval, and create special courts to try cases under the proposed Act.
- The Committee recommended specific amendments to the Indian Forests Act, 1927, the Forest (Conservation) Act, 1980, the Wild Life (Protection) Act, 1972, and the Environment (Protection) Act, 1986. For example, it made recommendations to change the current process

of granting forest clearances. It also recommended making wildlife management plans mandatory for state governments.

- The Committee recommended inducting relevant provisions of the Water (Prevention and Control of Pollution) Act, 1974, and Air (Prevention and Control of Pollution) Act, 1981 in the Environmental (Protection) Act, 1986, and repealing these two Acts.

For more details, please see the PRS analysis.<sup>148</sup>

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

The Wild Life (Protection) Amendment Bill, 2013 was withdrawn from Parliament in March 2015.<sup>149</sup> The Bill had been introduced in August 2013, and was examined by the Standing Committee on Science, Technology, Environment and Forests, which submitted its report in December 2014.

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>150</sup> The Standing Committee on Science, Technology, Environment and Forests agreed with the Ministry that a more comprehensive Bill should be drafted after a review of the Act.

### Orders/guidelines of the Ministry relating to environmental clearances

**Expansion of coal mining projects:** In July 2014, the Ministry of Environment, Forests and Climate Change issued guidelines to allow coal mines with an annual capacity of more than 16 million tonnes, a one-time capacity expansion without holding a public hearing, under certain conditions.<sup>151</sup>

The Ministry has constituted Expert Appraisal Committees for various sectors such as mining projects, thermal projects, industrial projects, etc. These Committees evaluate the environmental impact of projects.<sup>152</sup>

The Expert Appraisal Committee may consider exempting public hearings, after due diligence, if the additional production will not be more than five

million tonnes annually, and if the transportation of the additional coal is by a conveyor and/or rail transport. The grant of exemption would also depend on the satisfactory compliance with environmental clearances issued in the past.

**Construction projects:** In December 2014, the Ministry made the following changes to the process of awarding environmental clearances to construction projects:<sup>153</sup>

- **Types of projects covered and definition of built up area for building and construction projects:** Buildings and construction projects with a built up area between 20,000 sq m and 1,50,000 sq m require environmental clearance from the State Environment Impact Assessment Authority.<sup>154</sup> Built up area was previously defined as built up area for covered construction, and the activity area for uncovered areas.

The notification: (i) changes the definition of built up area to the built up or covered area on all floors including the basement or other service areas, and (ii) specifies the projects which will not be included, such as industrial sheds, school, colleges, and hostels for educational institutions.

- **Clearance from central Expert Appraisal Committee is not required in some cases:** Certain infrastructure and manufacturing projects require clearance from the Expert Appraisal Committee of the central government in case they are wholly or partially located within 10 km of the boundary of a protected area, notified eco-sensitive areas, etc. The notification clarifies that this requirement will not apply to buildings, construction projects, townships, and area development projects.

### Ratification of Nagoya Protocol; Climate talks in Lima

The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation entered into force in October 2014.<sup>155</sup>

The Nagoya Protocol was adopted by the Conference of the Parties to the Convention on Biological Diversity (CBD) in October 2010. It seeks to ensure the implementation of one of the three objectives of the CBD, i.e., the fair sharing of benefits arising out of the utilisation of genetic resources.<sup>156</sup>

India ratified the Protocol in 2012. India will therefore have to meet certain obligations under the Protocol including creating a legal framework and

providing clarity on rules governing access to and sharing of benefits from genetic resources.

The Lima Call for Climate Action was adopted at the 20<sup>th</sup> Conference of Parties to the United Nations Framework Convention on Climate Change (UNFCCC) in December 2014.<sup>157</sup>

The UNFCCC, signed in 1992, is an international climate treaty which seeks to limit the increase in average global temperatures and address climate change. At present there are 195 signatories to the treaty. India became a signatory to the treaty in June 1992 and ratified it in November 1993.

All the signatories of the UNFCCC meet at Conferences of Parties (COPs) to assess progress on the treaty. The 20<sup>th</sup> COP was held at Lima, Peru from December 1-20, 2014.

One of the key outcomes of the 20<sup>th</sup> COP was that signatories agreed to communicate their Intended Nationally Determined Contributions (INDCs) in advance of the next COP. INDCs are commitments made by countries, in which they specify actions that they will take to address climate change.

Additionally, countries agreed on a draft text for an international climate treaty expected to come into force in 2020. The draft treaty is expected to be finalised at the next COP to be held Paris in 2015. The draft text outlines measures relating to mitigation, technology development and transfer, adaptation, facilitating implementation and compliance, etc.

## Women and Child Development

### The Juvenile Justice (Care and Protection of Children) Bill, 2014 introduced in Lok Sabha

The Juvenile Justice (Care and Protection of Children) Bill, 2014 was introduced in the Lok Sabha in August 2014. It replaces the Juvenile Justice (Care and Protection of Children) Act, 2000.<sup>158</sup>

The Bill specifies procedures to be followed in cases of children in conflict with law and children in need of care and protection and seeks to address certain challenges in the existing Act. The Standing Committee on Human Resource Development submitted its report on the Bill in February 2015.<sup>159</sup>

Some of the key features of the Bill are:

- **Coverage:** A child is defined as anyone who is less than 18 years of age. A heinous offence is

an offence for which the minimum punishment is seven years. The punishment for a serious offence is between three to seven years of imprisonment.

- **Date of apprehension:** If a juvenile committed a heinous offence when he was between 16-18 years of age, and was apprehended before 21 years of age, he may be tried as an adult subject to a preliminary inquiry. If the same juvenile is apprehended after 21 years of age, he will be tried as an adult without such inquiry. If a juvenile committed a serious offence when he was 16-18 years of age and was apprehended before 21 years, he would be tried as a child. If apprehended after 21 years of age, he would be tried as an adult for the same offence.
- **Juvenile Justice Boards (JJBs):** These are constituted for dealing with children in conflict with law and are to be established in every district of states.
- **Children's Court:** These courts will try 16-18 year olds that commit heinous offences, after confirming that they are fit to be tried as adults.
- **Child Welfare Committees (CWCs):** CWCs are constituted in every district for dealing with children in need of care and protection.
- **Adoption:** Eligibility of prospective adoptive parents has been specified.

Key observations and recommendations of the Committee included:

- One of the reasons cited for the Bill's introduction was an increase in heinous offences committed by 16-18 year olds. The Committee stated that the data compiled by National Crime Records Bureau was misleading as it was based on filing of FIRs and not actual convictions. It also pointed out that the percentage of all juvenile crimes in India was only 1.2% of the total crimes committed in 2013,
- The Committee observed that subjecting juveniles to the adult criminal justice system could violate Article 14 (equality before law) and Article 15(3) (special laws may be enacted for the protection of children) of the Constitution,
- The Bill allows treatment of a 16-18 year old committing a serious or heinous offence and apprehended after 21 years of age, as an adult. The Committee stated that this would violate Article 20(1) of the Constitution (no person can be subjected to a penalty greater than that which would have been applicable to him, under a law

in force at the time of commission of the offence), etc.

For more details, please see the PRS analysis.<sup>160</sup>

## Health

### Amendments to the Cigarettes and Other Tobacco Products Act

In January 2015, the Ministry of Health and Family Welfare has proposed a Draft Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Amendment Bill, 2015.<sup>161</sup>

The Bill seeks to amend the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2005. Key changes proposed by the Bill are:

- Under the Act the minimum legal age for buying tobacco products is 18 years. The Bill changes the minimum legal age to 21 years.
- The Act prohibits smoking in a public place. The Bill also prohibits spitting of tobacco in public places. The definition of public place is changed to include airports and railway stations. The Bill allows smoking and spitting of tobacco in an international airport if it has a designated smoking area.
- For persons directly or indirectly advertising tobacco products or selling such products to those under 21 years of age, the competent authority may suspend or cancel the license of the relevant manufacturer, distributor or seller for a period they think fit.
- The penalty for smoking or using tobacco products in public places is increased from Rs 200 to Rs 1,000.
- The Bill prohibits the sale of tobacco products in loose or single sticks. Tobacco products are required to be sold in packages of size, content and weight as prescribed.
- Under the Act, sale of tobacco products is prohibited within 100 yards of an educational institution. The Bill amends this provision to within 100 metres of the educational institution.
- The Bill prohibits the employment or engagement of children below 18 years of age in the cultivation, processing and sale of tobacco products.

### Draft Drugs and Cosmetics Amendment Bill, 2014 proposed

The Ministry of Health and Family Welfare placed the Draft Drugs and Cosmetics (Amendment) Bill, 2015 in the public domain in December 2014. The Bill amends the Drugs and Cosmetics Act, 1940 and proposes changes in the regulation of the import, export, manufacture, distribution and sale of drugs, cosmetics, medical devices and clinical trials.<sup>162</sup>

Key provisions of the Bill are:

- The Bill amends the Act to include regulation of clinical trials. Clinical trials are defined in relation to drugs, cosmetics and medical devices, and involve a systematic study with the objective of determining their safety, efficacy, performance or tolerance.
- Anyone initiating a clinical trial has to register with the Drugs Controller General of India (DCGI) and get approval from an Ethics Committee registered with it. The Bill creates provisions for the medical treatment and compensation in case of injury or death of a person during participation in a clinical trial or due to it.
- Under the Act, medical devices were covered under the definition of drugs. The Bill changes this by adding a new definition of medical devices and introducing a separate chapter on regulation of medical devices.
- The Bill gives DCGI the power to issue licenses for the manufacture, sale, and distribution of 17 categories of drugs specified in Schedule Three of the Bill.
- In order to ensure standard quality of drugs, cosmetics, and medical devices, the Bill specifies conditions under which they will be considered misbranded, adulterated, or spurious and specifies penalties and offences for the same.

A similar Drugs and Cosmetics (Amendment) Bill, 2013 is currently pending in the Rajya Sabha. That Bill has a provision to establish the Central Drug Authority as a statutory authority that subsumes the existing Central Drugs Standards Control Organisation. The new Draft Bill has no such provision.

### Amendments proposed to the Medical Termination of Pregnancy Act, 1971

In October 2014, the Ministry of Health and Family Welfare proposed amendments to the Medical Termination of Pregnancy Act, 1971. The Draft

Medical Termination of Pregnancy (Amendment) Bill, 2014 proposed the following changes:

- The term registered medical practitioner is substituted with registered health care provider. Under the Act a registered medical practitioner is defined as a person who has training in gynaecology and obstetrics and possesses recognised medical qualifications as per the Indian Medical Council Act, 1956. The draft Bill includes persons with recognised medical qualifications in nursing (including auxiliary nurse midwives), Ayurveda, Unani, Siddha, Homeopathy in the definition.
- The Act requires that for the termination of pregnancy (i) which does not exceed 12 weeks, the opinion of one medical practitioner be taken, and (ii) between 12 weeks-20 weeks, the opinion of two medical practitioners be taken. The Bill also allows a pregnancy of up to 24 weeks to be terminated under certain conditions. The category of conditions will be prescribed in rules. In all three cases, the opinion of one registered health care provider will be required.
- The Bill states that the requirement of length of pregnancy will not apply in cases where the termination is due to substantial foetal abnormalities.
- The Bill prohibits a registered health care provider from revealing the name and other details of a woman who terminates a pregnancy.
- The penalty for (i) anyone other than registered health care providers terminating a pregnancy, and (ii) terminating a pregnancy in other than a prescribed location is rigorous imprisonment of two to seven years.

### Cabinet approves the National AYUSH Mission

In September 2014 Cabinet approved the launch of the National AYUSH Mission.<sup>163</sup> The Mission seeks to support the state and union territory governments in providing AYUSH health services, i.e., Ayurveda, Yoga and Naturopathy, Unani, Siddha, and Homeopathy systems. The mission will provide a higher allocation of resources for vulnerable and not easily accessible areas.

The core objectives of the mission are:

- Improvement of AYUSH education by increasing the number of educational institutions;

- Better access to AYUSH services through increase in number of AYUSH hospitals, dispensaries, availability of drugs and human resources;
- Improving availability of quality ayurvedic, siddha, unani and homeopathy drugs through increase in the number of pharmacies and drug laboratories.

### Committee to review Food Safety and Standards Act

The Ministry of Health and Family Welfare constituted a committee to undertake a review of the Food Safety and Standards Act, 2006 in December 2014.<sup>164</sup> The Act regulates the manufacture, distribution, import and sale of food articles.

According to the Ministry, several stakeholders have identified difficulties in complying with the provisions of the Act and its rules and regulations. More recently, the Supreme Court when hearing a case regarding adulteration of milk and milk products had observed that the Act needs to be reviewed to ensure that adulteration of food items is curbed.

The Committee is expected to make suggestions on amendments to the Act and its rules and regulations. The Committee is comprised of 16 members representing the food safety and standards authority, state food commissioners, officials from the department of health, food processing, agriculture, consumer affairs etc.

The Committee has not submitted its report on the Act as of March 2015.

### Draft National Health Policy 2015 proposed

The Ministry proposed a Draft National Health Policy 2015 in December 2014.<sup>165</sup>

Key objectives of the Policy include (i) improving health status by expanding preventive and curative services through the public health sector; (ii) reducing out of pocket expenditure on health care; (iii) ensuring availability of free, comprehensive primary health care services and access to free essential drugs, diagnostics etc. in public health facilities; and (iv) encouraging the growth of the private health care industry to make health care more effective and affordable. Some of the key focus areas of the Policy are:

- **Regulatory framework:** Strengthening the regulatory framework of health care to include reform of professional councils and ensure a balance between autonomy and accountability of

professional councils. The rules regarding setting up of medical colleges and regulation of medical education will be revised to correct distortions between prevailing health needs and professional skills.

- **Review of existing laws:** Clinical trials need to be regulated by law. Other laws that need review include the Mental Health Act, the Medical Termination of Pregnancy Act, the Bill regarding surrogate pregnancy and assisted reproductive technologies, Food Safety and Standards Act, Drugs and Cosmetics Act and the Clinical Establishments Act.
- **National Health Rights Act:** Enacting a National Health Rights Act to guarantee health as a fundamental right. The central government will do this after discussion and on the request of three or more states. Other states could choose to adopt this by a resolution of their Legislative Assembly.
- **Public health expenditure:** Raising public health expenditure to 2.5% of GDP with 40% of this expenditure being borne by the central government. In addition to general taxation, the government will raise resources by creating a health cess on the lines of the education cess. Special commodity taxes may be imposed on tobacco, alcohol, extractive industries etc.
- **Investments in health:** Focussing on targeted investments in building health infrastructure and human resources, and expanding the number of specialists and doctors by investing in states with larger human resource deficits.
- **Medical Institutions:** The policy intends to strengthen 58 existing medical colleges and convert 58 district hospitals to new medical colleges. The central government shall also expand the number of AIIMS like institutes of medical education and research from 9 to 15. The financing would be shared between the central and state governments.

### National Mental Health Policy launched

The National Mental Health Policy of India was launched by the Ministry of Health and Family Welfare in October 2014.<sup>166</sup> The Policy seeks to address mental health issues, its medical and non-medical aspects in a comprehensive way. The policy aims to promote mental health, enable recovery from mental illness through affordable and quality health care, and prevent stigma associated with mental illness.

They key features of the Policy are:

- **Effective governance and delivery mechanisms for mental health:** Develop relevant laws and regulations and ensure adequate budgetary resources to implement aspects of mental health care. Create suitable plans at the central, state and district levels to implement mental health programs.
- **Promotion of mental health:** Information and awareness regarding mental health will include (i) designing curricula towards life skills education; (ii) easy access to reliable information about mental illness; and (iii) reducing risk of mental illness amongst women, children and adolescents.
- **Prevention of mental illness and reducing suicide:** This includes (i) enabling access to early treatment and care giving facilities for early recovery; (ii) ensuring no stigma for and discrimination against mentally ill persons in all aspects of seeking and retaining work; and (iii) decriminalising attempted suicide.
- **Universal access to mental health services:** This will involve (i) developing norms and standards for quality mental health services; (ii) ensuring comprehensive services for mental health are universally accessible; and (iii) implementing screening programs for early identification and treatment of persons with mental illness.
- **Availability of adequately trained mental health human resources:** There is a need to (i) reduce gap between requirement and availability of mental health professionals such as psychiatrists, counsellors, psychologists, psychiatric social workers etc; (ii) start Masters and Diploma courses in psychiatric nursing; and (iii) train all health personnel in mental health issues.

## Education

### The Indian Institutes of Information Technology Bill passed by Parliament

The Indian Institutes of Information Technology (IIIT) Bill, 2014 was passed by Parliament in December 2014.<sup>167</sup>

The Bill seeks to provide each of the four existing IIITs, an independent statutory status. These are situated in Uttar Pradesh, Tamil Nadu and two in

Madhya Pradesh. It proposes to declare them as institutes of national importance.

For more details, please see the PRS analysis.<sup>168</sup>

### **The Central Universities (Amendment) Bill passed by Parliament**

The Central Universities (Amendment) Bill, 2014 was passed by Parliament, and the Amendment Act notified, in December 2014.<sup>169,170</sup>

The Act amends the Central Universities Act, 2009 by setting up a central university in Bihar, in addition to the existing one. The existing central university of Bihar will be renamed Central University of South Bihar. The new university will be called Mahatma Gandhi Central University.

For more details, please see the PRS analysis.<sup>171</sup>

### **The School of Planning and Architecture Bill passed by Parliament**

The School of Planning and Architecture Bill, 2014 was introduced in Lok Sabha, passed by Parliament and notified in December 2014.<sup>172,173</sup>

The Act declares three existing Schools of Planning and Architecture (SPAs) as institutes of national importance. This includes SPA New Delhi, SPA Bhopal and SPA Vijayawada. The main functions of these SPAs include:

- Undertake research and innovation in architecture, planning, and allied activities,
- Supervise and control the residence and regulate the discipline of students,
- Hold examinations and grant degrees, diplomas and other titles, and
- Notify and make appointments to various posts with prior approval of the centre.

The Act specifies the nature and composition of the various bodies of the SPAs such as the Board of Governors (principal executive body), the Senate (principal academic body), and the Council (coordinator of activities of all SPAs).

For more details, please see the PRS analysis.<sup>174</sup>

### **The National Institute of Design Bill, 2013 passed by Parliament**

The National Institute of Design (NID) Bill, 2013 was passed by Parliament in July 2014.<sup>175</sup>

The Bill seeks to declare NID, Ahmedabad as an institution of national importance. Earlier, NID, Ahmedabad functioned as an autonomous institution

under the Ministry of Commerce and Industry offering graduate and post-graduate diploma programmes. The Bill makes NID, Ahmedabad a body corporate with the legal status of an institute. NID can establish campuses at any place within or outside India. Authorities established for the governance and management of NID are the Governing Council, Senate, Chairperson, Director, Dean and Registrar.

For more details, please see the PRS analysis.<sup>176</sup>

### **33 themes identified for a new National Policy on Education**

In January 2015, the Ministry of Human Resource Development identified 33 themes towards formulating a new National Policy on Education and sought public feedback.<sup>177</sup> These themes have been divided into school education (13 themes) and higher education (20 themes).

Some of the themes identified include: (i) developing the best teachers; (ii) bridging gender and social gaps; (iii) school standards, school assessment and school management systems; (iv) ensuring learning outcomes in elementary education; (v) strengthening vocational education; (vi) integrating skill development in higher education; (vii) engagement with industry to link education to employability; and (viii) improving the quality of regulation, etc.

The first National Education Policy was released in 1968 and the second in 1986, which was subsequently modified in 1992. The main features of the National Policy on Education, 1986 included: (i) all students, irrespective of caste, creed, location or sex, have access to education of a comparable quality; (ii) a common educational structure of 10+2+3 years; (iii) inter-regional mobility in higher and technical education; and (iv) focus on adult literacy and education, etc.<sup>178</sup>

### **Supreme Court upholds constitutionality of Articles related to RTE; exempts minorities from 25% reservation**

The Supreme Court in May 2014 ruled that there was no violation of the basic structure of the Constitution by the insertion of Articles related to the Right of Children to Free and Compulsory Education (RTE) Act, 2009. It also ruled that minority institutions do not need to reserve a minimum of 25% of seats for children from weaker sections of society. The Court said that minority institutions refer to religious and linguistic minorities.<sup>179</sup>

The questions put to the five-judge bench of the Supreme Court related to whether the insertion of Article 15(5) and Article 21(A) has altered the basic structure of the Constitution.

Article 15(5) outlines the right of the state to make special provisions for the advancement of any socially and educationally backward classes, and their admission into educational institutions. Article 21(A) refers to the government's obligation to provide free and compulsory education to all children between the ages of six and 14 years. The Court held that both Articles do not violate the basic structure of the Constitution.

The RTE Act, 2009 provides for at least 25% of the strength of a class to be reserved for children belonging to weaker sections or disadvantaged groups. This applies to all schools of a specified category (such as Kendriya Vidyalaya, etc.) or unaided schools.<sup>180</sup> The Court upheld the 25% seat reservation for private unaided institutions and noted that there was no violation of their right to trade/business.

The other query pertained to whether the RTE Act, 2009 alters the minority character of aided or unaided institutions covered under Article 30(1) (stating that all minorities have the right to establish and administer educational institutes of their choice) and the Court held that it did. Therefore, it excluded minority institutions from the 25% reservation rule.

### Supreme Court rules on medium of instruction in primary schools

A five-judge bench of the Supreme Court delivered a judgment in May 2014 on the rights of a child belonging to a linguistic minority and his/her medium of instruction.<sup>181</sup> The Supreme Court upheld a Karnataka High Court order, which had disallowed the state from imposing Kannada at the primary level, in all schools.

The Court addressed the following issues:

- The Court ruled that the “mother tongue” of a child is not merely the language the child is comfortable with. It is the language of a group which is a linguistic minority in a state and that decided by the parent or guardian of the child.
- The Court held that children, or parents on their behalf, have the right to choose the medium of instruction at the primary school level.
- The Court also ruled that minority institutions would have a right to choose their own medium of instruction.

- Another question referred to whether government-recognised schools are inclusive of both government-aided and private unaided schools. The bench held that unaided schools that have been granted recognition can also be termed as government-recognised.
- Finally, the Court ruled that the state has no power to compel linguistic minorities to choose their mother tongue only as a medium of instruction in primary schools.

### UGC orders Delhi University to abolish the Four Year Undergraduate Programme

In an order in June 2014 the University Grants Commission (UGC) issued directives to Delhi University to discontinue the Four Year Undergraduate Programme (FYUP).<sup>182</sup>

Delhi University introduced the FYUP in June 2013 departing from the prevalent three year structure. A UGC order in June 2013 had established an Advisory Committee to ensure effective implementation of the FYUP.<sup>183</sup>

The UGC order stated that FYUP violates the 10+2+3 system of education prescribed by the National Policy on Education (NPE), 1986. The NPE, 1986 broadly outlines the educational policy of the country.<sup>184</sup>

The order also stated that possible complications may arise for students transferring to other universities that adhere to the three year programme, in India.

The key directives issued by UGC include:

- From the year 2014-15 onwards, the FYUP structure in Delhi University (and colleges under it) should be reverted to the three year structure.
- Appropriate arrangements should be made for students already enrolled in the FYUP to migrate to the three year programme. In doing so, the university should ensure that students do not lose out on a year or necessary academic competence.
- All other steps required to adhere to the three year undergraduate programme should be taken. Transferring of the curriculum to the three year system as envisaged by the NPE 1986, under the 10+2+3 format, should be facilitated.

UGC constituted a Committee to advise Delhi University on how to implement the directives. UGC also said that contravention of its directives by Delhi University could lead to a withdrawal of grants.<sup>185</sup>

Delhi University agreed to roll back the FYUP. Subsequently, the admission process for the academic

year 2014-15 took place on the basis of the three year programme instead of FYUP.<sup>186</sup>

However in another order, UGC said that students admitted to the Bachelor of Technology course in 2013-14, may continue in the four year format.<sup>187</sup>

### All India Council for Technical Education Review Committee constituted

The Ministry of Human Resource Development constituted a committee to review the All India Council for Technical Education (AICTE) in October 2014. The Committee has been set up to prepare a roadmap to restructure and strengthen the technical education sector.<sup>188</sup> While the Committee has submitted its report to the Ministry, it has not been made available in the public domain yet.

The Committee is expected to suggest amendments to the AICTE Act, 1987 and ways to address other challenges in the sector. Some of these other issues include, (i) evaluating the performance of AICTE (ii) determining the balance between its regulatory function and that of disbursement of grants, (iii) setting up an accreditation system for technical education, (iv) methods of enhancing the quality of technical education, and (v) measures for streamlining the vocationalisation of technical education, etc.

The Committee will be chaired by a former secretary of the Ministry. Members will include the Vice-Chancellor of the Gujarat Technological University, the Director of IIT Hyderabad and a member from IIT Chennai. It was expected to submit its report within six months of being constituted. This report is not available in the public domain yet.

In this context, the Cabinet gave its approval to withdraw the Higher Education and Research Bill, 2011 pending in the Rajya Sabha, in September 2014.<sup>189,190</sup> The Bill seeks to establish a common regulator for higher education and research; the National Commission for Higher Education and Research (NCHER). It replaces the University Grants Commission, AICTE and the National Council for Teacher Education with the NCHER for streamlining maintenance of standards, etc.

## Labour

### The Factories (Amendment) Bill, 2014 introduced in Lok Sabha

The Factories (Amendment) Bill, 2014 was introduced in Lok Sabha in August 2014.<sup>191</sup> The Bill

proposes to amend the Factories Act, 1948. The Act aims to ensure adequate safety measures, and promote the health and welfare of the workers employed in factories. Key changes proposed in the Bill include:

- **Definition of factory:** The Act defines a factory as any premises (with certain exceptions) where manufacturing was undertaken, and at least 10 (if power was used in manufacturing) or 20 (if no power was used) people were employed. The Bill specifies that the state government may raise the minimum number of workers employed to 20 (if power is used) and 40 (if power is not used).
- **Power to make Rules:** The Act permits the state government to make Rules regarding any matter which is covered by it. The Bill states that the state government's power to make Rules will be restricted to matters where the central government does not have such powers. The central government may frame Rules to bring uniformity in the areas of occupational safety, health or any other matter.
- **Employment of women:** The Act prohibits women from working: (i) on certain machines in motion, (ii) near cotton-openers, and (iii) between 7:00 PM and 6:00 AM. The Bill seeks to remove the first two restrictions. It proposes to empower the state government to allow women to work during night hours in a factory or group of factories if certain conditions are met (for example, if there are adequate safeguards for safety and transportation is provided from the factory to their residence).

The Standing Committee on Labour submitted its report on the Bill in December 2014.<sup>192</sup> Key recommendations of the Committee related to: (i) retaining list of hazardous industries in the Act; (ii) provision empowering state governments to raise threshold limit of workers in factories regulated under the Act be removed; and (iii) maximum number of overtime hours be increased for only some identified industries, instead of all industries.

For more details, please see the PRS analysis.<sup>193</sup>

### Parliament passes the Apprentices (Amendment) Bill, 2014

The Apprentices (Amendment) Bill, 2014 was passed by Parliament in November 2014.<sup>194</sup> The Bill amends the Apprentices Act, 1961. The Act regulates the training of apprentices in the industry. Key features of the Bill include:

- **Number of apprentices:** The Act says that the central government, after consulting the Central Apprenticeship Council established under the Act, shall determine the ratio of trade apprentices to workers (except unskilled workers) for each designated trade. The Bill states that the central government shall prescribe the number of apprentices to be engaged by an employer for designated and optional trades.
- **Appropriate government:** The Act defines appropriate government to be central government in relation to certain establishments, like railway establishments, or those owned and controlled by central government, etc. For all other cases, the state government is the appropriate government. The Bill also makes the central government the appropriate government for establishments operating in four or more states.
- **Offences and penalties:** The Act specifies certain offences which are punishable with imprisonment up to six months and/or with a fine. The Bill specifies the amount/maximum amount of the fine and eliminates imprisonment for such offences.

For more details, please see the PRS analysis.<sup>195</sup>

### Parliament passes Labour Laws (Exemptions from Returns) Bill, 2011

The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Amendment and Miscellaneous Provisions Bill, 2011 was passed by Parliament in November 2014.<sup>196</sup> The Bill amends the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Act, 1988.

The Act exempts establishments employing up to 19 persons from maintaining certain registers under nine labour laws mentioned in the First Schedule of the Act. The Bill extends these exemptions to establishments employing up to 40 persons and add seven labour laws to the First Schedule.

The Bill was referred to the Standing Committee on Labour, which submitted its report in December 2011.<sup>197</sup> The government circulated amendments to the Bill in August 2014, accepting some of the Standing Committee recommendations.<sup>198</sup> The Bill was passed with the following changes:

- The name of the Act is changed to The Labour Laws (Simplification of Procedure for Furnishing Returns and Maintaining Registers by certain Establishments) Act, 1988.

- Establishments with 19 or less employees are allowed to maintain and furnish records/returns either in electronic or physical form.
- An annexure for providing the names and addresses of the employees/workers has been added to the annual return form. The date of submission of annual returns will be changed to April 31 of every year versus January 31, as specified in the Bill.

For more details, please see the PRS analysis.<sup>199</sup>

### Draft Labour Code on Wages Bill, 2015 published

The Ministry of Labour and Employment published the Draft Labour Code on Wages Bill, 2015 in April 2015.<sup>200</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.
- **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:** 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.

### Draft Small Factories Bill, 2014 released

The Ministry of Labour and Employment published the Draft Small Factories (Regulation of Employment and Conditions of Services) Bill, 2014 in October 2014.<sup>201</sup> Key features of the draft Bill are as follows:

- It defines a “small factory” as a premise where a manufacturing process is carried on and which employs less than 40 workers.
- Small factories have to submit an electronic application for registration. After registration, a certification of registration and a Labour Identification Number will be issued.
- Provisions for payment of wages, hours of work and overtime are included. In addition, state governments are empowered to allow women to work at night, subject to certain safeguards being provided.
- Employers have to ensure that workers are covered by a provident fund, health insurance scheme and a gratuity insurance scheme.
- Provisions for health and safety in small non-hazardous factories have been included. However, for small factories involved in hazardous manufacturing processes, the Factories Act, 1948 will apply.
- Contravention of any provision will be punishable with a fine of up to Rs 5,000 or imprisonment of up to three months, or both.

### Government proposes amendments to child labour laws

The Ministry of Labour and Employment proposed: (i) certain amendments to the Child Labour (Prohibition and Regulation) Act, 1986 in June 2014; and (ii) repeal of the Children (Pledging of Labour) Act, 1933 in August 2014.<sup>202,203</sup>

**Amendments proposed to the 1986 Act:** The Child Labour (Prohibition and Regulation) Amendment Bill, 2012 is pending in Rajya Sabha. The Standing Committee on Labour had submitted its report on the Bill in 2013. The Bill seeks to prohibit employment of: (i) children below 14 years in all occupations except where the child helps his family after school hours; and (ii) adolescents between 14-18 years in hazardous industries. The 1986 Act prohibited employment of children below 14 years in certain occupations (like, domestic work), and did not cover adolescents between 14-18 years.

The Ministry has accepted some of the Committee’s recommendations: (i) to regulate the work of children

in the entertainment industry, and (ii) parents of adolescents working in hazardous occupations should not be punished in the first instance, only repeat offenders.

**Repeal of 1933 Act:** The 1933 Act makes the practice of pledging labour of children by parents/guardians for getting advance money unlawful. The Ministry proposes to repeal it.

### Ministry proposes to repeal Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956

The Ministry of Labour and Employment proposed to repeal the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 in January 2015.<sup>204</sup> In 1960, all except three provisions of the Amendment Act were repealed through the Repealing and Amending Act, 1960. Now, the Ministry proposes to repeal the remaining three provisions. These provisions provide:

- The Amendment Act will not apply to industrial disputes which were pending before a tribunal prior to its commencement;
- The Amendment Act will not override state laws which were in operation before its commencement; and
- The Industrial Disputes (Appellate Tribunal) Act, 1950 shall be repealed.

The Commission on Review of Administrative Laws, under chairmanship of Mr. P.C. Jain, had recommended repeal of this law in September 1998 because it had become irrelevant.<sup>205</sup>

### Five schemes launched by Labour Ministry

The Ministry of Labour and Employment launched five schemes in October 2014.<sup>206</sup>

- **Shram Suvidha Portal:** This is a dedicated portal which will allot Labour Identification Number to approximately 6 lakh units and allow these units to file online compliance for 16 out of 44 central labour laws.<sup>207</sup>
- **Random Inspection Scheme:** Human discretion in selecting units for inspection will be eliminated through the use of technology, and objective criteria will be used to generate a random list. All inspection reports will be uploaded within 72 hours.
- **Universal Account Number:** A Universal Account Number (UAN) has been allotted to all Employee Provident Fund holders. The UAN is

being seeded with the bank account, Aadhaar card and Know-Your-Customer details. This is to make the Provident Fund account portable, hassle-free and universally accessible.

- **Apprentice Protsahan Yojana:** This scheme will support manufacturing units by reimbursing 50% of the stipend paid to apprentices during the first two years of training.
- **Revamped Rashtriya Swasthya Bima Yojana:** A new smart card for the unorganised sector workers will be provided. It will include the details of two other social security schemes.

## Skill Development

### Sector Skills Council (Education) set up

The Ministry of Human Resource Development set up the Sector Skills Council (Education) in October 2014.<sup>208</sup> The Council aims to do the following:

- Set up a Labour Market Information System to assist in planning and delivery of training;
- Identify skill development needs and prepare a catalogue of skill types;
- Develop a skill development plan and maintain a skills inventory; and
- Develop skill competency standards and qualifications.

The National Skill Development Corporation will provide the Council with assistance to prepare a plan proposal, along the guidelines specified above.

The composition of the Council's governing council has also been specified. The chairman shall be nominated by the Ministry and some of the members include the chairmen of the All India Council for Technical Education, University Grants Commission, National Council of Educational Research and Training and Vice-Chancellors of central universities.

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

The Pradhan Mantri Kaushal Vikas Yojana was approved by the Union Cabinet in March 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>209</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. Subsequently, the scheme was allocated Rs 1,500 crore in the Union Budget 2015-16.
- **Assessing demand:** Skill training would be done on the basis of the demand assessed by skill gap studies, conducted by the NSDC, for 2013-17.
- **Implementation:** The scheme will 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.

## Social Justice

### Bill to amend SC/ST Prevention of Atrocities Act, 1989 introduced in Parliament

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2014 was introduced in Parliament in July 2014.<sup>210</sup> It seeks to amend the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The Standing Committee on Social Justice and Empowerment submitted its report on the Bill in December 2014.<sup>211</sup>

The Bill replaced the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Ordinance, 2014 that was promulgated on March 4, 2014.<sup>212</sup> A similar Bill was introduced in the Lok Sabha in December 2013 but lapsed with the dissolution of the 15<sup>th</sup> Lok Sabha.<sup>213</sup>

Key features of the Bill include:

- The Act outlines actions against Scheduled Castes (SCs) and Scheduled Tribes (STs) to be treated as offences. The Bill amends certain

existing categories and adds new categories of actions to be treated as offences. For example, a new offence includes imposing a social or economic boycott against SCs or STs.

- The Act states that it is a punishable offence for a public servant to neglect his duties relating to SCs or STs. The Bill specifies these duties, which include registering an FIR, etc.
- The Act mandates that states establish Special Courts to try offences under the Act. The Bill mandates that states establish Exclusive Special Courts for one or more districts. Special Courts may be established in districts where there are fewer cases.
- The Bill adds a chapter on the rights of victims and witnesses. It mandates that the State make arrangements for the protection of victims, their dependents, and witnesses.

The Standing Committee endorsed the Bill, and made the following recommendations:

- The following should be made punishable offences: (i) registration of false cases, (ii) acquiring false SC and ST certificates, and (iii) entering an inter-caste marriage to procure SC or ST status to acquire land or fight elections.
- Atrocities against women belong to a SC or ST should be tried by special courts for women with women judges and women public prosecutors preferably belonging to SC or ST community.

For more details, please see the PRS analysis.<sup>214</sup>

### **Bills to modify the list of Scheduled Castes in certain states passed by Parliament**

Two Bills to amend the list of Scheduled Castes in certain states were passed by Parliament, in December 2014 and March 2015.

The Constitution (Scheduled Castes) Orders (Amendment) Bill, 2014 was introduced in Parliament in August 2014, and passed by it in December 2014.<sup>215,216</sup>

The Bill amends the Constitution (Scheduled Castes) Order, 1950 and the Constitution (Sikkim) Scheduled Castes Order, 1978 to modify the list of Scheduled Castes in some states. It adds certain communities to the list of Scheduled Castes in Kerala, Madhya Pradesh, Odisha, and Tripura, and removes a community from the list of Scheduled Castes in Sikkim.

For more details, please see the PRS analysis.<sup>217</sup>

A second Bill, the Constitution (Scheduled Castes) Order (Amendment) Bill, 2014 was introduced in Parliament in February 2014 and passed by it in March 2015.<sup>218</sup>

The Bill amends the Constitution (Scheduled Castes) Order, 1950 and the Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962. It adds certain communities to the list of Scheduled Castes in Dadra and Nagar Haveli, Haryana, Karnataka and Odisha.

For more details, please see the PRS analysis.<sup>219</sup>

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

In March 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>220</sup> According to news reports, the government filed a review petition in the Supreme Court in April 2015.<sup>221</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, in March 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 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>222,223</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 transgendered

people, moving away from a ‘caste-centric’ definition of backwardness.

- **On using outdated reports and lists:** The government argued that 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 in all cases (except Haryana) inclusion of Jats in the OBC list happened over a decade ago; and is outdated.

## Textiles

### Textiles Undertakings (Nationalisation) Laws (Amendment and Validation) Bill, 2014 passed by Parliament

The Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Ordinance, 2014 was promulgated in October 2014.<sup>224</sup>

The Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Bill, 2014 replacing the Ordinance and was passed by Parliament in December 2014.<sup>225,226</sup>

In 2011, the Supreme Court held that National Textile Corporation Limited (NTC) must vacate land on which Toyo Poddar Cotton Mills Limited, Mumbai (managed by NTC under the Textiles Undertakings (Nationalisation) Act, 1995) stood, as the lease-hold tenure had expired.<sup>227</sup>

NTC had argued that it need not vacate the premises as lease-hold rights were with the central government. It argued that the Maharashtra Rent Control Act, 1999, under which NTC was asked to vacate the land, exempts land leased by the central government from its provisions.

The Act amends the Sick Textile Undertakings (Nationalisation) Act, 1974 and the Textile Undertakings (Nationalisation) Act, 1995, in order to continue with the leasehold rights vested with National Textile Corporation (NTC) on completion of lease-hold tenure.<sup>228</sup>

Salient features of the Bill include:

- Lease-hold rights of textile undertakings will vest with the central government, and will be exercised by NTC on behalf of the government.
- No court may order the divestment of property vested with NTC by the central government. Court proceedings directing lease-hold land to be divested from NTC will not be maintained or continued. These new provisions will be applied retrospectively. Thus, these provisions will be deemed to have been in force from the time that each Act was enacted.

For more details, please see the PRS analysis.<sup>229</sup>

## Tribal Affairs

### Van Bandhu Kalyan Yojana launched

The Ministry of Tribal Affairs launched the Van Bandhu Kalyan Yojana in July 2014.<sup>230</sup> The objectives of the scheme were to provide employment to Scheduled Tribes and improving infrastructure, education, health, and the quality of life of Scheduled Tribes in tribal areas.

The scheme was to be implemented in close to 350 administrative blocks in Fifth Schedule areas, where more than 50% of the population consists of Scheduled Tribes, as ‘model blocks’.<sup>231</sup>

Under the Fifth Schedule of the Constitution, the President can declare certain areas as Scheduled Areas based on criteria such as a high population of Scheduled Tribes and low socio-economic development.<sup>232</sup>

A Project Implementation Cell was to set up in the Tribal Welfare Department of each state to implement and monitor the scheme.

However, in the Union Budget (2015-16), the government announced that this scheme, along with other schemes of the Ministry is to be merged under one umbrella Van Bandhu Kalyan Yojana.<sup>233</sup>

## Law and Security

### Law and Justice

#### Bills to set up a National Judicial Appointments Commission passed by Parliament

The Constitution (121<sup>st</sup> Amendment) Bill, 2014 and the National Judicial Appointments Commission Bill, 2014 were passed by Parliament in August 2014.<sup>234,235</sup> The Acts received Presidential assent in December 2014.<sup>236</sup>

The Constitution (99<sup>th</sup> Amendment) Act, 2014 amends the provisions of the Constitution related to the appointment of Supreme Court (SC) and High Court (HC) judges, and the transfer of HC judges.

Prior to this, the Constitution provided that the President was to make such appointments after consulting with SC and HC judges, as he considered necessary.

This has been interpreted by the SC to imply that the President will act on the recommendation of a collegium consisting of the Chief Justice of India and four senior most SC judges.

The Act modified this process by creating a body called National Judicial Appointments Commission (NJAC) that will make recommendations to the President for such appointments.

The NJAC will consist of the following six members:

- (i) Chief Justice of India (CJI) (Chairperson)
- (ii) Two senior most SC Judges
- (iii) Union Minister of Law and Justice, and
- (iv) Two eminent persons (to be nominated by the CJI, Prime Minister of India and the Leader of Opposition in the Lok Sabha).

Of the two eminent persons, one person would be from the SC/ST/OBC/minority communities or be a woman. The eminent persons shall be nominated for a period of three years and shall not be eligible for re-nomination.

The NJAC Act, 2014 provides for the procedure to be followed by the NJAC in recommending persons for appointment as CJI, other SC judges and for the appointment and transfer of HC judges.

In making such appointments, the NJAC shall not recommend a person if any two of its members do not agree to such recommendation. Further, the

President may ask for reconsideration of a candidate nominated by the NJAC.

The Constitutional validity of these Bills has been challenged, and a five-judge bench of the Supreme Court started examining the issue in April 2015.

For more details, please see the PRS summaries.<sup>237</sup>

#### Bill to amend the Lokpal and Lokayukta Act, 2013 introduced in Lok Sabha

The Lokpal and Lokayuktas and other related Law (Amendment) Bill, 2014 was introduced in Lok Sabha in December 2014.<sup>238</sup> It was referred to the Standing Committee on Law and Justice a few days later, and its report is awaited.

The Bill amends the Lokpal and Lokayuktas Act, 2013 and the Delhi Special Police Establishment (DSPE) Act, 1946. Salient amendments include:

- **Leader of opposition party:** The Act provides for a Selection Committee for making appointments to the Lokpal. The Committee includes the Leader of Opposition (LoP) in Lok Sabha. The Bill amends this provision to state that the leader of the single largest opposition party in the House will be part of the Selection Committee, in the absence of a recognised LoP in Lok Sabha.
- **Absence of member:** The Act states that the appointment of a Chairperson or member of the Lokpal will not be invalid for reasons of vacancy in the Selection Committee. The Bill adds that the proceedings of the Committee will also not be invalidated due to the absence of a member.
- **Declaration of assets:** The Act requires a public servant to declare his assets within 30 days of assuming office. The details of such declarations include liabilities and assets jointly owned by him, his spouse and dependent children.
- The Bill requires that the declaration now contain information of all his assets, including: (i) movable and immovable property owned by him or his family, and (ii) debts and liabilities incurred by him. Relevant provisions related to public servants under the Representation of the People Act, 1951 and the All India Services Act, 1951, would also apply.
- **Amendments to the DPSE Act:** The DSPE Act, 1946, provides for a Directorate of Prosecution which is headed by a Director, of a rank not

below that of Joint Secretary, for conducting prosecution of cases. The Bill introduces an eligibility criterion in this regard. It states that an officer of the rank of Joint Secretary, eligible to become a Special Public Prosecutor may be appointed as Director of Prosecution. In the absence of such a candidate, an advocate with at least 15 years experience in handling cases of corruption, money laundering, etc., may be appointed to this post.

For more details, please see the PRS analysis.<sup>239</sup>

### Parliament passes Delhi Special Police Establishment (Amendment) Bill, 2014

The Delhi Special Police Establishment (Amendment) Bill, 2014 was introduced in Lok Sabha in November 2014, and passed by both Houses of Parliament within a few days.<sup>240</sup>

The Bill amends the Delhi Special Police Establishment Act, 1946. The Act constitutes a special police force to be called the Delhi Special Police Establishment (also known as the Central Bureau of Investigation or CBI). The Bill makes the following two amendments:

- **Composition of the Committee:** The Act provides for a three member committee to make recommendations to the central government for appointment of the Director of the CBI. The Committee comprises the Prime Minister (Chairperson), the Chief Justice of India or a Supreme Court judge nominated by him, and the Leader of Opposition in the Lok Sabha. The Bill amends this provision in relation to the Leader of Opposition. It states that where there is no Leader of Opposition, the Leader of the single largest opposition party in that House would be part of the committee.
- **Vacancy Committee:** A provision has been introduced stating that the appointment of a Director would not be invalid due to the vacancy or absence of a member of the Committee.

### Supreme Court holds Section 6A of the Delhi Special Police Establishment Act, 1946 as unconstitutional

On May 6, 2014, the Supreme Court held that Section 6A of the Delhi Special Police Establishment Act, 1946 (DPSE Act) was unconstitutional.<sup>241</sup> The Act established the Central Bureau of Investigation.

Section 6A of the Act stated that a CBI officer would require prior approval from the appropriate government before conducting an investigation

against a public servant, of the rank of Joint Secretary and above, for any offence under the Prevention of Corruption Act, 1988.

However, prior approval would not be necessary for cases involving arrest of a person on the spot for accepting a bribe.

The question before the Court was whether a classification could be made on the basis of the status or position of the public servant for the purpose of inquiry into allegations of corruption.

The Court held that the classification made in Section 6A of the DPSE Act on the basis of status in government service was not permissible under Article 14 of the Constitution. Such a classification defeated the purpose of looking into allegations of corruption of all public servants under the Prevention of Corruption Act, 1988. Therefore, CBI would not have to take prior approval before conducting an inquiry or investigation against any public servant.

### Bills related to the repealing and amending of certain laws introduced in Parliament; 758 Appropriation Acts to be repealed

Two Bills were introduced in Parliament for the repeal and amendment of certain laws. The Repealing and Amending Bill, 2014 was introduced in the Lok Sabha on August 11, 2014 and passed in that House on March 18, 2015.<sup>242</sup>

The second Bill, the Repealing and Amending (Second) Bill, 2014 was introduced in Lok Sabha on December 3, 2014 and was passed in that House on December 8, 2014.<sup>243</sup>

The Bills are considered to be periodic measures to repeal those laws that have become obsolete, or are no longer necessary, as the amendments have been included in the parent laws.

#### Repealing and Amending Bill, 2014

The Repealing and Amending Bill, 2014 seeks to repeal 36 Acts and amend two Acts. These include four Acts that are being repealed entirely. The remaining 32 Acts are amendment Acts and the changes have been incorporated into the principal Acts. Two Acts are being amended to rectify minor errors.

The Standing Committee on Law and Justice submitted its report on this Bill on December 18, 2014.<sup>244</sup> The Committee recommended that the Bill be passed. However, it stated that the Employment of Manual Scavenging and Construction of Dry Latrines (Prohibition) Act, 1993 not be repealed, as

constitutional procedure required a resolution to be passed by relevant states.

The Committee suggested that the government should consider providing a sunset clause in amending acts, for their automatic repeal.

The Bill was passed in Lok Sabha, after removing the Manual Scavenging Act, 1993 from its ambit, as recommended by the Standing Committee.

### **Repealing and Amending (Second) Bill, 2014**

The Repealing and Amending (Second) Bill, 2014 seeks to repeal 90 laws and pass amendments to two laws. Of the 90 Acts, 88 are being repealed entirely. As they are amendment Acts, the changes have been incorporated into the principal Acts.

Further, the Bill amends provisions of two Acts, the Railways (Amendment) Act, 2008 and the Indian Maritime University Act, 2008. These amendments rectify typographical errors.

The Select Committee constituted to examine the Bill submitted its report to the Rajya Sabha on February 24, 2015.<sup>245</sup> The Committee recommended that the Bill be passed.

In addition, it recommended that: (i) an ‘automatic repeal clause’ be included in the Railway and Finance Appropriation Acts, and other Bills; (ii) Law Ministry may consider amending the General Clauses Act, 1897 (related to the effect of repeals) to include an automatic repeal clause in Bills; (iii) The exercise of repealing obsolete laws must be carried out every five years in a uniform manner.

In March, 2015, the Cabinet approved a Bill to repeal 758 Appropriation Acts.<sup>246</sup> These include the Railways Appropriation Acts enacted from 1950 to 2012, and 111 state Appropriation Acts enacted by Parliament from 1950 to 1976.

### **Law Commission submits four interim reports on obsolete laws; PMO Committee submits report and draft bill**

The Law Commission of India submitted four interim reports to the Law Ministry (Report 248<sup>th</sup> to 251<sup>st</sup>) as part of its project related to ‘The Legal Enactments: Simplifications and Streamlining’.<sup>247</sup> The recommendations of the four reports include:

- Across the four interim reports, 252 laws have been recommended for repeal. This is because: (i) the subject matter of the law in question is outdated, or (ii) the law is no longer needed to govern that subject, or (iii) there is a newer law governing the same subject matter.

- Further, 11 permanent ordinances, promulgated during World War II, in entirety, and certain provisions of the 25 state reorganization laws have been recommended for repeal.
- These include pre constitution laws, pre independence laws, and several laws that have been rendered irrelevant following the process of nationalisation.
- Only those Appropriation Acts that are older than 10 years have been recommended for repeal. This would result in the repeal of more than 700 laws. Further, including repeal clauses in all Appropriation Acts would be useful.
- The central government must review the functioning of the Mica Mines Welfare Fund and other legislation related to welfare funds.
- 34 repealed laws are still available on the ministry websites, and must be removed.
- Law Ministry must ensure easy access to updated central laws in force, to lay persons.

Further, the Prime Minister’s office (PMO) constituted a two member committee related to repeal of obsolete laws, which submitted its report in November 2014.<sup>248</sup> The Committee sought to identify those central laws which it considered to be no longer relevant and fit to be repealed or re-enacted in the present socio-economic context.

- The Committee compiled the status of central Acts enacted from 1834 to October 15, 2014.
- It identified 1741 central acts for repeal out of 2781 central Acts existing in the statute books.
- It identified 150 central laws for consolidation and re-grouping under 21 proposed central acts to avoid multiplicity of laws.
- It identified 55 laws for repeal or re-enactment.

The Committee prepared a Model Draft Repealing Bill for repeal of 1277 central acts.

### **Standing Committee submits report on the Bill related to Tribunals**

The Standing Committee on Law and Justice submitted its report on The Tribunals, Appellate Tribunals and Other Authorities (Conditions of Service) Bill, 2014 in February 2015.<sup>249</sup> The Bill was introduced in Rajya Sabha in February 2014 and referred to the Committee in the same week.<sup>250</sup>

The Bill seeks to establish uniform conditions of service for the Chairpersons and members of 26

central tribunals and authorities. Salient recommendations of the Committee are:

- **Inclusion of tribunals within the ambit of the Bill:** The Bill includes 26 tribunals and authorities within its ambit. The Committee stated that the classification of tribunals may be based on an intelligible differentia. Those tribunals which do not qualify to be called tribunals in the strict sense, including regulatory bodies, should be excluded.
- **Age of retirement of members:** The Bill provides for different ages of retirement for members based on their previous posts. The Committee stated that the retirement age must be associated with the post to which an individual is appointed. A uniform retirement age of 70 years must be fixed for chairperson and members.
- **Tenure of members:** The Bill provides for five year tenure for members. The Committee recommended that a term of seven years may be provided so that knowledge and expertise gained by members may be better utilized.
- **Reappointment of members:** The Bill permits reappointment for an additional term of five years. The Committee noted that a similar provision in relation to the National Tax Tribunal was struck down by the Supreme Court in 2014. It recommended that this provision be omitted.
- **National Tribunals Commission:** A National Tribunals Commission must be constituted to oversee the selection process, eligibility criteria for appointment and removal of chairpersons and members, and requirement of infrastructural and financial resources.

For more details, please see the PRS analysis.<sup>251</sup>

### Supreme Court declares the National Tax Tribunal as unconstitutional

In September 2014, the Supreme Court held that the National Tax Tribunal Act, 2005 was unconstitutional and struck it down.<sup>252</sup>

The National Tax Tribunal Act, 2005 constituted the National Tax Tribunal (NTT), a quasi-judicial appellate tribunal. The NTT was vested with the powers of deciding appeals arising from orders passed by Appellate Tribunals constituted by the Income Tax Act, the Customs Act, 1962, and the Central Excise Act, 1944.

The Court held that:

- **Transfer of judicial power permissible:** Transfer of judicial power vested in superior courts to coordinate courts/ tribunals is permissible. But whenever there is such transfer, all conventions and practices of the court to be replaced must be incorporated in the tribunal created.
- **Sections 5,6,7,8 and 13 of the NTT Act unconstitutional:** These provisions demonstrated that the NTT differs from the High Courts in the following ways:
  - (i) Efficacy and convenience of remedy available is lower, as the tribunal bench is mandated to be located in the NCT of Delhi;
  - (ii) The central government has a role in the constitution and functioning of the tribunal, i.e. determining where the benches would be set up, its jurisdiction, composition and constitution of the benches. This could affect independence and fairness of its members;
  - (iii) Appointment and qualification of its members, which includes Accountants and Technical members is different. The composition of the tribunal including appointment and qualification of its members would have to be on the same parameters as that of the HC judges.

In light of the fact that Sections 5,6,7,8 and 13 of the NTT Act were held to be unconstitutional, the Court held that the remaining provisions were rendered worthless. Thus, the Act as a whole was set aside.

### Standing Committee Report on the Delhi High Court (Amendment) Bill, 2014 presented to Rajya Sabha

The Standing Committee on Personnel, Public Grievances, Law and Justice presented its report on the Delhi High Court (Amendment) Bill, 2014 in November 2014.<sup>253</sup>

The Bill seeks to amend the Delhi High Court Act, 1966 and the Punjab Courts Act, 1918 to raise the original pecuniary jurisdiction of the Delhi High Court (HC) and 11 district courts in the National Capital Territory of Delhi from Rs 20 lakh to Rs two crore.

The Committee endorsed the enhancement of pecuniary jurisdiction of the Delhi HC and district courts. It further observed that there is a need to

bring in uniformity in the pecuniary jurisdiction of HCs across the country.

It observed that following the amendments, around 12,211 cases which are pending in the Delhi HC would be distributed amongst eleven district courts. This would facilitate speedier disposal of cases.

### Law Commission submits report on manpower planning in the judiciary

The Law Commission of India submitted its report on 'Manpower Planning in Judiciary: A Blueprint', to the Ministry of Law and Justice in July, 2014.<sup>254</sup>

The highlights of its recommendations include:

- The recruitment of new judges should be based on the number of judges required to dispose of the backlog, within a three year time frame.
- The age of retirement of subordinate judges should be raised to 62 years.
- Special morning and evening Courts must be set up for dealing with traffic related challan cases. Such cases constitute 38.7% of the newly instituted and 37.4% of all pending cases before the subordinate judiciary in the last three years.
- Recent law graduates may be appointed for short durations (about three years) to preside over these special traffic courts.
- Creation of additional courts would facilitate timely justice. Provisions for adequate staff and infrastructure must be included.
- Other measures such as putting in place timeliness and performance benchmarks are necessary to reduce delays.
- High Courts must be directed to evolve uniform data collection and management methods. This would ensure transparency and facilitate data based policy prescriptions.

### Law Commission submits report related to commercial divisions of High Courts

The Law Commission submitted its 253<sup>rd</sup> Report on the Commercial Division and Commercial Appellate Division of High Courts and Commercial Courts Bill, 2015 to the Law Ministry in January 2015.<sup>255</sup> Key recommendations of the Commission include:

- **Definition of commercial disputes:** Commercial disputes should be defined broadly to mean disputes arising out of ordinary transactions of merchants, bankers, financiers and traders, etc.

- **Setting up of commercial divisions:** Commercial divisions are to be set up by the central government in high courts that are already exercising original civil jurisdiction. They are to take up commercial disputes of a value of Rs one crore or more.
- **Setting up of commercial courts:** Commercial courts are to be set up in: (i) states where high courts do not have original civil jurisdiction, such as Bangalore, and (ii) in those regions where the original civil jurisdiction of high courts does not extend, such as Pune or Madurai.
- **Raising of pecuniary jurisdiction:** Pecuniary jurisdiction of high courts having original jurisdiction must be raised uniformly to Rs one crore and commercial divisions should be consequently set up.

### Law Commission submits reports on Amendments to the Arbitration and Conciliation Act, 1996

The Law Commission of India submitted its report on Amendments to the Arbitration and Conciliation Act, 1996 to the Law Ministry in August 2014.<sup>256</sup> The Arbitration and Conciliation Act, 1996 deals with domestic arbitration and conciliation, international commercial arbitration and the enforcement of foreign arbitral awards.

The Law Commission noted that there are certain problems with the current law. These include: (i) delays and huge costs associated with the arbitration process, (ii) arbitration related litigation which remain pending before the courts, and (iii) a challenge to an arbitral award is made before the Courts and remains pending for several years.

The Law Commission has suggested that the following issues be addressed:

- **Encouraging institutionalised arbitration:** Courts must encourage parties to refer their disputes to institutionalised arbitration. The centre may also consider the formation of the Arbitral Commission of India.
- **Conduct of arbitral proceedings:** The practice of frequent adjournments must be discouraged. Continuous sittings of an arbitral tribunal for recording of evidence and arguments must be ensured.
- **Delays in courts, and before the tribunal:**
  - (i) The issue of frivolous complaints must be addressed by implementing actual costs on the party.

- (ii) High Courts must have the power to appoint arbitrators. This function may be delegated to specialized, external persons or institutions.
- (iii) International commercial arbitrations involving foreign parties must be heard expeditiously and by judges at the High Court level.

The Law Commission submitted a supplementary report to its 246<sup>th</sup> Report on Amendments to the Arbitration and Conciliation Act, 1996 to the Law Ministry in February 2015.<sup>257</sup> The report examined the term ‘public policy’ in the Act in light of recent Supreme Court judgments.

The Act permits the court to set aside an arbitral award if it is “in conflict with the public policy of India”. The Act explains that this term would include: (i) fraud or corruption in making the award; or (ii) violation of confidentiality or use of inadmissible evidence in arbitration proceedings.

In its supplementary report, the Law Commission recommended that a court may set aside an arbitral award on additional grounds of being in violation of: (i) the fundamental policy of Indian law, and (ii) basic notions of morality and justice.

### Law Commission submits report on the Prevention of Corruption (Amendment) Bill, 2013

The Law Commission of India submitted its 254<sup>th</sup> Report on the ‘Prevention of Corruption (Amendment) Bill, 2013’ to the Law Ministry in February 2015.<sup>258</sup> The 2013 Bill was introduced in Rajya Sabha, in August 2013, to amend the Prevention of Corruption Act, 1988.

Cabinet circulated a draft that further modifies the 2013 Bill, in November 2014. The Law Commission examined the 2013 Bill and the 2014 amendments, and made some recommendations:

- **Prior sanction for investigation:** The 2014 amendments require that prior sanction be obtained before an investigation against a public official is conducted. Further the proviso states that even if a person is caught on the spot accepting illegal gratification, his intention to perform a public function improperly will have to be shown in consequence. The Commission recommended that this proviso be deleted.
- **Attachment of property:** The 2013 Bill introduces provisions related to attachment and forfeiture of property of a public servant, who

may have committed an offence under the Act. The Commission recommended that provisions of the Prevention of Money Laundering Act, 2002 and the Criminal Law Amendment Ordinance, 1944 apply where appropriate.

- **Liability of heads of an organisation:** The 2013 Bill states that when a commercial organisation is held guilty of bribery, the Bill extends the liability to every person in charge of, and responsible to, the organisation. The Commission recommends that this provision be deleted. Further, it specifies that the liability should be extended to a director, manager, secretary or other officer of the commercial organisation only if it is proven that the offence was committed with their connivance or consent.

### Law Commission submits report on electoral reforms; SC constitutes committee on regulation of public advertisements

The Law Commission of India submitted its 255<sup>th</sup> Report on ‘Electoral Reforms’ to the Law Ministry in March, 2015.<sup>259</sup> This report is a sequel to a previous report on Electoral Disqualifications which was submitted in February 2014.<sup>260</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; and (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.

In April 2014, the Supreme Court had constituted a committee to look into the use of public funds in advertising campaigns of the government and political parties.<sup>261</sup> The Committee, in its report, has recommended that government advertisements should be politically neutral and avoid photographs of political leaders. It also recommended severe restrictions on government advertisements six months prior to elections. The Law Commission endorsed this position.

### Supreme Court recognises constitutional rights of transgender persons

In April, 2014, the Supreme Court passed a judgment to give legal recognition to transgender persons as a third gender. It also gave directions to safeguard their rights on the grounds of right to equality and equal protection under Articles 14 and 15 and the right against gender discrimination under Article 16 of the Constitution.<sup>262</sup>

'Transgender' is an umbrella term that describes persons whose gender identity, expression or behaviour does not conform to their biological sex.

In this regard, the Court directed the central and state governments to take appropriate steps to:

- Treat transgender persons as socially and educationally backward classes, and extend reservation for admission to educational institutions and for public appointments;
- Operate separate HIV sero-surveillance centres for transgender persons;
- Provide adequate medical care to transgender persons in hospitals and ensure separate public toilets and other facilities.

### Law Commission submits report on a Hindu wife's right to maintenance

The Law Commission submitted its 252<sup>nd</sup> Report on 'Right of the Hindu Wife to Maintenance: A relook at Section 18 of the Hindu Adoptions and Maintenance Act, 1956' to the Law Ministry in January 2015.<sup>263</sup>

In January 2014, the High Court of Punjab and Haryana passed a decision on a matter in relation to maintenance under Hindu law. The matter dealt with a Hindu wife seeking maintenance from her father in law as her husband was of unsound mind.

The Hindu Adoptions and Maintenance Act, 1956 states that a Hindu wife is entitled to claim maintenance from her husband during her lifetime, under certain circumstances including that of desertion etc. Further, the Act states that the father in law is required to provide maintenance only in cases where the daughter in law is widowed, and where certain other circumstances exist.

The High Court asked the Law Commission to examine the Hindu Adoptions and Maintenance Act, 1956, in relation to the question of maintenance to a woman whose husband is unable to maintain her.

The Commission recommended that a new clause be inserted in the Act to state that in cases where the husband is unable to provide for his wife, on account of: (i) physical disability; (ii) mental disorder; (iii) disappearance; or (iv) renunciation of the world by entering any religious order or other similar reasons, the Hindu wife is entitled to claim maintenance from members of the husband's joint Hindu family. This would not apply in cases where the husband has received his share in the joint family property.

### Law Commission submits report on the Indian Succession Act, 1925

The Law Commission of India submitted its report on 'Sections 41 to 48 of the Indian Succession Act, 1925 - Proposed Reforms' to the Law Ministry in September, 2014.<sup>264</sup>

The Indian Succession Act, 1925 deals with succession of property by a will and intestate succession (where no will exists).

The report examined provisions of the Indian Succession Act, 1925 which deal with intestate succession of property of a deceased person without descendants. These provisions apply to Christians. The Commission noted that these sections were discriminatory towards women.

Key recommendations of the Commission include:

- Currently, the Act states that upon the death of the person, the father inherits his entire property, and the mother gets no share. The law must be amended to ensure that parents of the deceased person inherit the property in equal proportions.
- In its present form, the Act states that if the person's father is dead, but mother, brother and sisters are living, the mother and each living sibling shall inherit the property in equal shares. This provision should be amended to state that if either of the parents is dead, the other parent is to inherit the entire property.
- The Act provides for cases where the brother or sister of the deceased person has also died, but the mother is alive. Under these circumstances, the child of the dead sibling will inherit the sibling's share in the property along with the mother of the deceased. This provision should be amended to permit nieces and nephews of the deceased to inherit a share, only if both parents of the deceased are also dead.

## Defence

### FDI policy in defence revised

The Department of Industrial Policy & Promotion (DIPP) made several changes to the policy on Foreign Direct Investment (FDI) in defence in August 2014.<sup>265</sup>

**FDI cap:** The FDI cap in the defence industry was raised to 49% of equity, from the initial cap of 26%. FDI above 49% is permissible only with the approval of the Cabinet Committee on Security on a case-to-case basis depending on the likelihood of access to modern and state-of-art technology.

**Portfolio investment permitted:** FDI limit of 49% is inclusive of all kinds of foreign investment (for example, investments by Foreign Institutional Investors, Foreign Portfolio Investors, Non Resident Indians, etc.). Portfolio investment by investors however cannot exceed 24% of the total equity of the investee/joint venture company.

#### Other changes:

- Applications will be considered, and licenses given by the DIPP. It will act in consultation with the Ministry of Defence and Ministry of External Affairs.
- The Chief Security Officer of the investee company will be a resident Indian citizen.

- The investee will be self-sufficient in areas of product design and development.
- FDI in defence was previously subject to a three year lock-in-period for transfer of equity from one non-resident investor to another non-resident investor, and such transfers also needed a prior approval of the government. These requirements were removed.

## Home Affairs

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

The Citizenship (Amendment) Bill, 2015 was introduced in Lok Sabha in February 2015, and was passed by Parliament in March 2015.<sup>266</sup> The Bill amends the Citizenship Act, 1955 which regulates the acquisition and determination of citizenship. It replaced the Citizenship (Amendment) Ordinance, 2015 which was promulgated in January 2015.<sup>267</sup>

Key amendments in the Bill include:

- Under the Act, in some cases an applicant for citizenship is required to have one year's continuous stay in the country before applying. The Bill allows the central government to relax the requirement of one year of continuous stay by a maximum of 30 days.
- The Act specifies grounds on which a person may be eligible for an Overseas Citizen of India (OCI) card. An OCI cardholder is entitled to benefits such as a 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 of an Indian citizen was not allowed to apply for an OCI card under the Act, but s/he can under the Bill.
- The Bill provides that Persons of Indian Origin (PIO) shall be treated as OCI cardholders. Before enactment of the Bill, PIO cardholders enjoyed fewer benefits than OCI cardholders. For example, they were entitled to 15 years of visa free entry into India, while OCI cardholders were provided a life-long visa.

For more details, please see the PRS analysis.<sup>268</sup>

## Two Bills amending the Andhra Pradesh Reorganisation Act, 2014 passed by Parliament

Parliament passed two Bills amending the Andhra Pradesh Reorganisation Act, 2014: (i) the Andhra Pradesh Reorganisation (Amendment) Bill, 2014; and (ii) the Andhra Pradesh Reorganisation (Amendment) Bill, 2015. The Act provides for the bifurcation of Andhra Pradesh into the successor states of Andhra Pradesh and Telangana.

**2014 Bill:** This Bill was introduced and passed by Parliament in July 2014.<sup>269</sup> It replaced the Andhra Pradesh Reorganisation (Amendment) Ordinance, 2014 promulgated in May 2014.

The Bill transfers seven mandals (excluding a few revenue villages within the mandals) of the Khammam district in Telangana to the successor state of Andhra Pradesh. This transfer is meant to ensure continuity in the areas that form part of Andhra Pradesh. It is also meant to facilitate Andhra Pradesh's Polavaram Multi-purpose National Irrigation Project.

**2015 Bill:** This Bill was introduced and passed by Parliament in March 2015.<sup>270</sup> The Act provides that two Legislative Councils shall be constituted, 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 more details, please see the PRS analysis.<sup>271</sup>

## The Anti-Hijacking Bill, 2014 introduced and the Anti-Hijacking (Amendment) Bill, 2010 withdrawn

The Ministry of Civil Aviation introduced the Anti-Hijacking Bill, 2014 in Rajya Sabha in December 2014.<sup>272</sup> The Bill repeals the Anti-Hijacking Act, 1982. An earlier Bill seeking to amend the Anti-Hijacking Act, 1982, which was pending in Rajya Sabha, was withdrawn.

The Anti-Hijacking Bill, 2014 seeks to give effect to the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft signed in Beijing in September 2010. Key provisions in the Bill include:

- **Definition of hijacking:** The Bill defines hijacking as seizing control of an aircraft in service by force, or coercion, or any form of intimidation, or by technological means. An aircraft is in service from the time it is being

prepared for a flight by ground personnel or crew, until 24 hours after landing.

- **Other offences:** The Bill punishes the following with respect to aircraft hijacking: (i) attempt and abetment, (ii) making a credible threat, (iii) agreeing with another to commit the offence and acting on the agreement, (iv) participating as an accomplice, (v) assisting a person to evade investigation, prosecution, or punishment, and (vi) contributing in any manner toward commission of hijacking, or knowing that hijacking is to be committed.
- **Punishment for hijacking:** The Bill provides for death penalty for hijacking or its related offences if it results in the death of a hostage or security personnel. In all other cases, punishment will be imprisonment for life and fine. Moveable and immovable property of the accused can also be confiscated.
- **Power to seize or attach property:** The Bill confers the power to seize or attach property of the accused on the investigating officer in certain cases. Designated courts also have the power to order attachment of property during trial.

The Standing Committee on Transport, Tourism & Culture submitted its report on the Anti-Hijacking Bill, 2014 in March 2015.<sup>273</sup> Key recommendations of the Committee include: (i) making acts such as preparing for hijacking and making hoax calls punishable; (ii) death penalty in all cases where death of *any* person is caused as a direct consequence of aircraft hijacking; and (iii) compensation should be provided for victims of hijacking or their dependents.

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

The Border Security Force (Amendment) Bill, 2011 was withdrawn by the Ministry of Home Affairs in March 2015.<sup>274</sup> The Bill sought to amend the Border Security Force 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 operational area of the Border Security Force to any area within the territory of India as notified by the government.

## Standing Committee submitted report on the floods and landslide in J&K

The Standing Committee on Home Affairs submitted its report on Rescue, Rehabilitation and Reconstruction in the aftermath of the floods and landslides in Jammu & Kashmir in December

2014.<sup>275</sup> Key observations and recommendations of the Committee include:

- **Causes of disaster:** Rampant encroachment on river banks, deforestation and siltation were identified as factors contributing to the natural disaster. The government should set up an expert group of scientists and geologists for a detailed study of the factors which contributed to the landslide.
- **Pre-emptive measures & communication networks:** The state government did not take sufficient pre-emptive measures despite having received a forewarning regarding heavy rainfall. Enough satellite phones were not available causing breakdown of communication system.
- **Relief & Rehabilitation:** The compensation amount for victims has been very low because it is being given from the State Disaster Response Fund as per guidelines framed in 2001. Under these guidelines the state is entitled to Rs 2,947 crore. The government should assess loss of assets, and prepare a comprehensive rehabilitation and reconstruction plan.
- **National disaster management machinery:** Comprehensive disaster management planning is required throughout the country irrespective of the frequency of disasters in a particular region. The Disaster Management Act, 2005 should be implemented properly and recommendations of the February 2014 Standing Committee should also be implemented.

### Standing Committee submitted report on refugees and displaced persons in J&K

The Standing Committee on Home Affairs submitted its report addressing Problems being faced by Refugees and Displaced Persons in Jammu & Kashmir in December 2014.<sup>276</sup> Key recommendations include:

- **Refugees who came in from West Pakistan in 1947:** The central government must persuade the state government to consider giving the refugees from West Pakistan the status of permanent residents by amending the state Constitution. This would allow them to have the right to vote in the State Legislative Assembly, and other legal rights. A one-time compensation of Rs 30 lakh may be provided within a year.
- **Persons displaced from Pakistan occupied Jammu & Kashmir in 1947:** The government should take up the matter of defreezing 8 seats, out of the total 24 Legislative Assembly seats,

which are designated for territorial constituencies in Pakistan occupied Jammu & Kashmir. A one-time compensation of Rs 30 lakh may be provided, and until its finalisation, sufficient interim relief must be given.

- **Persons displaced from the Chhamb area during the Indo-Pak War in 1965 and 1971:** Occupancy or tenancy rights should be granted to these displaced persons over the land occupied by them. A substantive proposal for one-time compensation for these persons should be formulated. Till the proposal is finalised, payment of a monthly stipend to landless and houseless persons should be considered.

### Ministry accepts recommendations of the Committee on concerns of people from the North East

The Ministry of Home Affairs accepted certain recommendations of the Committee to Look into Concerns of the People of the North East living in Other Parts of the Country (Chair: Mr. M.P. Bezbaruah) in January 2015.<sup>277</sup> The Committee submitted its report in July 2014.<sup>278</sup>

The Committee classified its recommendations into three categories: (i) immediate, which are to be implemented within six months to one year; (ii) short term, which are to be implemented between one year and one and a half years; and (iii) long term, to be implemented between one and a half years and three years.<sup>279</sup> The Ministry accepted recommendations made by the Committee with regard to immediate measures, including:

- Amending the Indian Penal Code, 1860 to insert provisions criminalising: (i) promoting or using criminal violence against members of a race on grounds of their race or place of origin; and (ii) words or actions intended to insult members of a particular race;
- Setting up a panel of lawyers by the Delhi Legal Service Authority for providing legal assistance to people from the North East;
- Education related measures, like a scholarship for students from the North East; and
- Sports related measures, like identifying talented sports persons from the North East and arranging for their training.

Some other key short term and long term recommendations of the Committee include: (i) creating a computerised database of people from the North East; and (ii) establishing a North East Centre

in Delhi which would be an autonomous institution responsible for the above-mentioned database, holding cultural performances, etc.

### Expert Committee submits report on alternatives for a new capital of Andhra Pradesh

The Expert Committee to Study the Alternatives for a New Capital for the State of Andhra Pradesh (Chair: Mr. K.C Sivaramakrishnan) submitted its report in August 2014 recommending a decentralised development model for Andhra Pradesh's new capital in August 2014.<sup>280</sup> The Committee was appointed by the Ministry of Home Affairs in March 2014 to study various alternative locations for Andhra Pradesh's new capital.

This Committee was formed in accordance with the provisions of the Andhra Pradesh Reorganisation Act, 2014.<sup>281</sup> The Act stipulates that the state of Andhra Pradesh is to be bifurcated into Telangana and the successor state of Andhra Pradesh. Further, Hyderabad will be the common capital for 10 years, following which it would be the capital of the new state of Telangana. The Act required that a committee to suggest a capital city for the successor state of Andhra Pradesh be constituted by the centre, within 45 days of the Act in force.

The Committee identified three regions across which capital functions and other institutions could be distributed: (i) Vizag in Uttarandhra; (ii) Rayalaseema Arc comprising Kurnool, Anantapur, Tirupati, Kadapa and Chittoor; and (iii) Kalahasti-Nadikudi spine along the proposed Kalahasti-Nadikudi railway line. For the Chief Minister's office and offices of the Ministers and the Secretariat, the Committee recommended locating them in and around Vijayawada-Guntur-Tenali-Mangalgi area.

### 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 in March 2015.<sup>282</sup> This reservation is applicable to 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. This reservation will include 33% reservation for women in each Scheduled Castes/Scheduled Tribes/Other Backward Classes category.

## External Affairs

### Standing Committee submits report on Constitution (119th Amendment) Bill, 2013

The Standing Committee on External Affairs submitted its report on the Constitution (119<sup>th</sup> Amendment) Bill, 2013 in December 2014.<sup>283</sup> The Bill amends the First Schedule of the Constitution to give effect to an agreement between India and Bangladesh in 1974, and its protocol which was signed in 2010. The Bill allows for the transfer and acquisition of certain territories between India and Bangladesh. The Standing Committee recommended that the Bill be enacted into law.

The Committee also made several recommendations with regard to: (i) the need for development plans for areas being acquired by India, (ii) compensation and rehabilitation for Indian citizens who return from Indian enclaves in Bangladesh, (iii) security concerns with respect to influx of population after transfer and acquisition of territories, and (iv) consultations with the Government of Bangladesh to protect interests of Indian nationals who stay back in Bangladesh after the exchange of territories.

For more details, please see the PRS analysis.<sup>284</sup>

### Key agreements signed with other countries

In 2014-15, India entered into some agreements and understandings with other countries, such as United States, Russia, Japan, China and Australia.

**United States:** Prime Minister Mr. Narendra Modi visited the United States in September 2014, and the President of the United States Mr. Barack Obama visited India in January 2015.<sup>285,286</sup> During the visits, India and United States reached an understanding on two issues with respect to the Agreement for Cooperation concerning Peaceful Uses of Nuclear Energy: (i) civil nuclear liability of suppliers under the Civil Liability for Nuclear Damage Act, 2010 and (ii) administrative arrangements for implementing the agreement.<sup>287</sup> The framework agreement was signed by both countries in 2005.

Both countries also entered a Joint Strategic Vision for the Asia-Pacific and the Indian Ocean region to safeguard maritime security, freedom of navigation and improved infrastructure connectivity in the region.<sup>288</sup> A Declaration of Friendship to hold regular summits, and three Memoranda of Understanding to develop Vishakhapatnam, Allahabad and Ajmer as smart cities were signed.<sup>289</sup>

**Russia:** President of the Russian Federation Mr. Vladimir Putin visited India in December 2014.<sup>290</sup>

India and Russia signed an agreement to set up at least 12 nuclear power plant units in the next two decades in India.<sup>291</sup> Both countries also agreed to: (i) enhance the orders for materials/ equipments from Indian suppliers, (ii) set up joint ventures to allow for transfer of technology, (iii) fabricate nuclear fuel assemblies in India, and (iv) establish a Coordination Committee to oversee cooperation with respect to nuclear energy. 19 other agreements were signed between the two countries on issues such as defence training, joint production and exploration of hydrocarbons, etc.<sup>292</sup>

**Japan:** Prime Minister Mr. Narendra Modi visited Japan in August-September 2014.<sup>293</sup> Japan promised \$35 billion investment in India over five years. Eight MoUs and other agreements were signed with regard to: (i) cooperation in defence; (ii) partnership between Varanasi and Kyoto; (iii) healthcare; (iv) transport, etc.<sup>294</sup>

**China:** Chinese President Xi Jinping visited India in September 2014.<sup>295</sup> During this visit, China promised \$20 billion investment in India in the next five years. The establishment of two Chinese industrial parks, one each in Gujarat and Maharashtra, was also announced. Seven MoUs and agreements were signed regarding cooperation in railways, provincial (Gujarat- Guangdong) and city-to city (Mumbai-Shanghai, Ahmedabad-Guangzhou) partnerships, etc.

**Australia:** Prime Minister of Australia Mr. Tony Abbott visited India in September 2014, and Prime Minister Narendra Modi visited Australia in November 2014.<sup>296,297</sup> An agreement on nuclear energy was signed between the two countries which allows for supply of uranium from Australia, among other things. Nine other agreements/ understandings were entered into during both visits regarding water resources management, narcotics trafficking, etc.<sup>298,299</sup>

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<sup>15</sup> The Constitution (115<sup>th</sup> Amendment) Bill, 2011, Ministry of Finance.

<sup>16</sup> The Insurance Laws (Amendment) Bill, 2015, Ministry of Finance,

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