Monthly Policy Review

November 2019

Highlights of this Issue

GDP grows at 4.5% during the second quarter of 2019-20 (p. 2)
The GDP (at constant prices) grew at 4.5% during the second quarter of 2019-20, over the corresponding period a year ago. Growth in all sectors, except mining, decreased from the second quarter of 2018-19.

15th Finance Commission period extended by one year from 2020-25 to 2020-26 (p. 4)
The Commission had to submit its report by November 2019 for the period 2020-25. It will now submit two reports: the first report for the year 2020-21 and the final report for the period 2021-26 (by October 30, 2020).

Union Cabinet approves six CPSEs for disinvestment (p. 5)
The six CPSEs approved for disinvestment include BPCL, SCI, and CONCOR. The Cabinet also approved reduction of equity below 51% (on a case to case basis), while retaining management control.

Winter session of Parliament begins; Parliament passes four Bills (p 2, 3, 6, 14)
The session will have 20 sittings till December 13, 2019. Bills passed by both houses include the Chit Funds (Amendment) Bill, 2019, and the Transgender Persons Bill, 2019.

9 Bills introduced in Lok Sabha; Four Bills passed (p. 3, 4, 9, 12, 13)
Bills introduced in Lok Sabha include the Industrial Relations Code, 2019, and the Taxation Laws (Amendment) Bill, 2019. In addition, Bills passed by Lok Sabha include the Prohibition of Electronic Cigarettes Bill, 2019.

Supreme Court rules on restructuring of Tribunals through the Finance Act, 2017 (p. 7)
The Court struck down the Tribunal, Appellate Tribunal and other Authorities Rules, 2017. It referred the question of whether certain provisions in the Finance Act, 2017 could be passed through a Money Bill to a larger bench.

Supreme Court brings office of CJI under the Right to Information Act, 2005 (p. 8)
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Cabinet approves special window fund for completion of stalled housing projects (p. 4)
The fund will be used for completion of projects in the affordable and middle-income housing sector. Total funds to be infused by the government would be up to Rs 10,000 crore. Maximum fund for one project will be Rs 400 crore.

Rules for bringing financial service providers (FSPs) under IBC, 2016 notified (p. 14)
The respective financial regulators may initiate resolution process against NBFCs with an asset size of over Rs 500 crore, or against any other class of FSP notified by the government.

Draft amendments increasing penalty for improper use of emblems, names released (p. 16)
The draft amendments propose to increase the maximum penalty for improper use of emblems and names from Rs 500 to one lakh rupees. The amendments also propose to introduce a higher penalty for repeat offenders.

Union Cabinet approves deferred payment of spectrum auction instalments (p. 18)
The telecom service providers will have the option to defer payment of spectrum auction instalments due for the years 2020-21 and 2021-22, either for one or both years.

Standing Committees submit reports on Bills; One Bill sent to Select Committee (p. 10, 11)
The Standing Committee on Health submitted its reports on Bills related to regulation of Homoeopathy and Indian System of Medicine. The Surrogacy (Regulation) Bill, 2019 was referred to a Rajya Sabha Select Committee.

December 2, 2019

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Parliament

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Winter session of Parliament begins

The Winter Session of Parliament began on November 18, 2019.[1] It will have 20 sittings until December 13, 2019. In this session, 12 pending Bills have been listed for consideration and passing. Of these, four Bills have been passed by Parliament including the Transgender Persons (Protection of Rights) Bill, 2019, and the Chit Funds (Amendment) Bill, 2019. 27 Bills are listed for introduction, consideration, and passing in this session.

So far, 9 Bills have been introduced in the Lok Sabha. Of these, two were Bills replacing Ordinances. These were the Taxation Laws (Amendment) Bill, 2019, and the Prohibition of Electronic Cigarettes Bill, 2019. Other Bills introduced include the Industrial Relations Code, 2019, and the Recycling of Ships Bill, 2019.

Lok Sabha passed four Bills, including the Special Protection Group (Amendment) Bill, 2019, the Prohibition of Electronic Cigarettes Bill, 2019, and the NCT of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Bill, 2019.

The First Supplementary Demand for Grants for 2019-20 were tabled in Lok Sabha. Through the suplementary budget, the government seeks the approval of Parliament for an additional expenditure of about Rs 19,000 crore.

For more details on the legislative agenda during the Winter Session 2019, see here.

Macroeconomic Development

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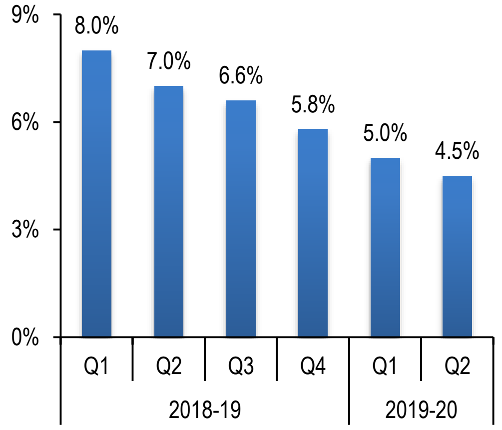
GDP grows at 4.5% during the second quarter of 2019-20

The Gross Domestic Product (GDP) (at constant 2011-12 prices) of the country grew at 4.5% during the second quarter (July-September) of 2019-20, over the corresponding period a year ago.[2] The quarterly trend of GDP growth is shown in Figure 1.

Figure 1: GDP growth (in %, year-on-year)



Sources: MOSPI; PRS.

GDP growth across economic sectors is measured in terms of Gross Value Added (GVA). The growth rate of combined GVA for all sectors decreased from 6.9% in the second quarter of 2018-19 to 4.3% in the second quarter of 2019-20. The growth rate of GVA decreased for all sectors, except for mining. It increased from -2.2% to 0.1% for mining. Note that the GVA for the manufacturing sector decreased by one percent in the second quarter of 2019-20, as compared to an increase of 6.9% during the corresponding period a year ago. Table 1 shows details on sectoral GVA growth.

Table 1: Gross Value Added across sectors (growth in %, year-on-year)

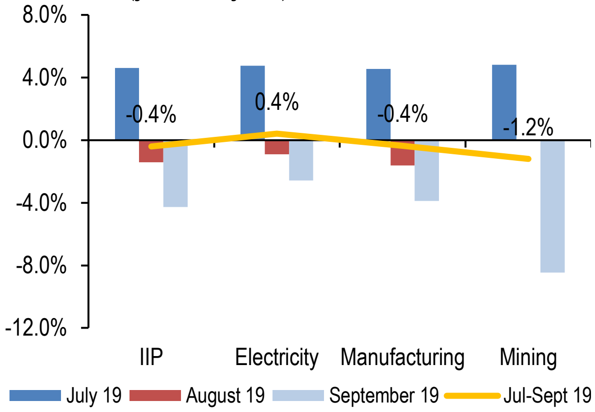
Sector	Q2 2018-19	Q1 2019-20	Q2 2019-20
Agriculture	4.9%	2.0%	2.1%
Mining	-2.2%	2.7%	0.1%
Manufacturing	6.9%	0.6%	-1.0%
Electricity	8.7%	8.6%	3.6%
Construction	8.5%	5.7%	3.3%
Services	7.3%	6.9%	6.8%
GVA	**6.9%**	**4.9%**	**4.3%**

Note: GVA is measured at base prices (2011-12).
Sources: Central Statistics Office, MOSPI; PRS.

Industrial production growth declined by 0.4% during the second quarter of 2019-20

The Index of Industrial Production (IIP) declined by 0.4% in the second quarter (July-September) of 2019-20, as compared to the same period in 2018-19.[3] Electricity sector saw a growth of 0.4%, whereas manufacturing and mining sectors declined by 0.4% and 1.2%, respectively. Figure 2 shows the year-on-year growth in industrial production, overall and across sectors, for the second quarter of 2019-20.

Figure 2: Growth in IIP in the second quarter of 2019-20 (year-on-year)



Sources: MOSPI; PRS.

Finance

The Taxation Laws (Amendment) Bill, 2019 introduced in Lok Sabha

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The Taxation Laws (Amendment) Bill, 2019 was introduced in Lok Sabha.[4] The Bill replaces the Ordinance promulgated in September 2019. It amends the Income Tax Act, 1961 (IT Act), and the Finance (No. 2) Act, 2019. The Bill provides domestic companies with lower tax rate options, if they do not claim certain deductions. It also amends certain provisions regarding levy of surcharge on capital gains. Key features include:

- **22% tax rate for domestic companies:** Currently, domestic companies with annual turnover of up to Rs 400 crore pay income tax at the rate of 25%. For other domestic companies, the tax rate is 30%. The Bill provides domestic companies with an option to pay income tax at the rate of 22%, if they do not claim certain deductions under the IT Act. These include deductions provided for: (i) newly established units in Special Economic Zones, (ii) investment in new plant or machinery in notified backward areas, (iii) expenditure on scientific research, agriculture extension, and skill development projects, (iv) depreciation of new plant or machinery (in certain cases), and (v) various other provisions in the IT Act.
- **15% tax rate for new domestic manufacturing companies:** New domestic manufacturing companies can opt to pay income tax at the rate of 15%, provided they do not claim the deductions specified above. They should be set up and registered after September 30, 2019, and should start manufacturing before April 1, 2023. These will not include companies: (i) formed by splitting up or reconstruction of an existing business, (ii) engaged in any business other than manufacturing, and (iii) using any plant or machinery previously used in India (except under certain specified conditions).
- **Applicability of new tax rates:** Companies can choose to opt for the new tax rates starting the financial year 2019-20 (i.e. assessment year 2020-21). Once an option is chosen, it will apply for all the subsequent years. If companies choosing a new option do not follow certain conditions, they cannot exercise the new option for that year and subsequent years. In some cases, companies for whom the 15% tax rate option becomes invalid can opt for the 22% tax rate option.

For more details on the Bill, please see here.

Chit Funds (Amendment) Bill, 2019 passed by Parliament

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The Chit Funds (Amendment) Bill, 2019 was passed by Parliament.[5] The Bill seeks to amend the Chit Funds Act, 1982. The Act regulates chit funds, and prohibits a fund from being created without prior sanction of the state government.

Under a chit fund, people agree to pay a certain amount from time to time into a fund. Periodically, one of the subscribers is chosen by drawing a chit to receive the prize amount from the fund. Key provisions of the Bill include:

- **Names for a chit fund:** The Act specifies various names which may be used to refer to a chit fund. These include chit, chit fund, and kuri. The Bill additionally inserts 'fraternity fund' and 'rotating savings and credit institution' to this list.
- **Presence of subscribers through video-conferencing:** The Act specifies that a chit will be drawn in the presence of at least two subscribers. The Bill seeks to allow these subscribers to join via video-conferencing.
- **Foreman's commission:** Under the Act, the 'foreman' is responsible for managing the chit fund. He is entitled to a maximum commission of 5% of the chit amount. The Bill seeks to increase this to 7%. Further, the Bill allows the foreman a right to lien against the credit balance from subscribers.
- **Aggregate amount of chits:** Under the Act, chits may be conducted by firms, associations or individuals. The Act specifies the maximum amount of chit funds which may be collected. These limits are: (i) one lakh rupees

for chits conducted by individuals, and for every individual in a firm or association with less than four partners, and (ii) six lakh rupees for firms with four or more partners. The Bill increases these limits to three lakh rupees and 18 lakh rupees, respectively.

- **Application of the Act:** Currently, the Act does not apply to: (i) any chit started before it was enacted, and (ii) any chit (or multiple chits being managed by the same foreman) where the amount is less than Rs 100. The Bill removes the limit of Rs 100, and allows the state governments to specify the base amount over which the provisions of the Act will apply.

For a PRS summary of the Bill, see here.

International Financial Services Authority Bill introduced in Lok Sabha

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The International Financial Services Centres Authority Bill, 2019 was introduced in Lok Sabha.[6] The Bill provides for the establishment of an Authority to develop and regulate the financial services market in the International Financial Services Centres in India. Note that, a similar Bill had been introduced in the previous Lok Sabha and referred to a Standing Committee.[7] The Bill was withdrawn in this session.[8] Key features of the Bill include:

- **Coverage:** The Bill will apply to all International Financial Services Centres (IFSC) set up under the Special Economic Zones Act, 2005.
- **Constitution of the International Financial Services Centres Authority:** The Bill sets up the International Financial Services Centres Authority. The Authority will consist of nine members (including a chairperson), appointed by the central government. Members of the Authority will include representation from the RBI, SEBI, the Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory Development Authority, and the Ministry of Finance. Further, two members of the Authority are to be appointed on the recommendation of a Search Committee.
- **Functions of the Authority:** Functions of the Authority include: (i) regulating financial products (such as securities, deposits or contracts of insurance), financial services, and financial institutions in an IFSC which have been approved by any regulator (such as the RBI or SEBI), before the enactment of this Act, (ii) regulating any other financial products, financial services, or financial institutions in an IFSC, which may be notified by the central government, and (iii) recommending to the central government, any other financial services, products, or financial institutions which may be permitted in an IFSC.
- **International Financial Services Centres Authority Fund:** The Bill sets up the International Financial Services Centres Authority Fund. Grants, fees and charges received by the Authority, and sums received by the Authority from various sources will be credited to the Fund.
- **Transaction in foreign currency:** As per the Bill, all transactions of financial services in IFSCs will be in such foreign currency as specified by the Authority, in consultation with the central government.

For a PRS summary of the Bill, see here.

15th Finance Commission period revised to 2020-2026 with one-year extension

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The President extended the period of the 15th Finance Commission (the period for which it is required to give its recommendations) by one year, from 2020-25 to 2020-26.[9] Earlier, the Commission was required to submit its report by November 2019, consisting of recommendations for the period 2020-21 to 2024-25. It is now required to submit two reports. The first report will consist of recommendations for the financial year 2020-21. The final report will consist of recommendations for the extended period 2021-22 to 2025-26. The time limit by which the Commission is required to submit its final report has also been extended till October 30, 2020.

Cabinet approves special window fund for stalled housing projects

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The Union Cabinet approved establishment of a special window fund for completion of stalled housing projects which are in the affordable and middle-income housing sector.[10]

The central government will infuse up to Rs 10,000 crore in the fund. Contributions from banks, Life Insurance Corporation, and others will generate a total corpus of Rs 25,000 crore.[11] The maximum finance for any single project will be Rs 400 crore.

The fund will be setup as a category-2 alternate investment debt fund registered with the SEBI.

Category-2 funds are those which undertake borrowing only for meeting day-to-day operational requirements (most real estate funds fall under this category).

Affordable or middle-income housing projects include projects where the maximum carpet area of the housing unit is 200 sq m (net usable floor area excluding area covered by external walls, balcony or verandah area).[12] Further, the cost of the project should be: (i) up to two crore rupees in Mumbai Metropolitan Region, (ii) up to 1.5 crore rupees in the National Capital Region, Chennai, Kolkata, Pune, Hyderabad, Bangalore, and Ahmedabad, and (iii) up to one crore rupees in the rest of India.[11]

There are about 1,509 housing projects comprising approximately 4.58 lakh housing units, which are in the stalled category.[11] 90% of these stalled projects are under the affordable and mid-income segment. Note that these housing projects may include non-performing assets, or projects undergoing proceedings under the National Company Law Tribunal (except projects where cases are pending in the High Court or the Supreme Court).[11]

Cabinet approves strategic disinvestment of six CPSEs; allows minority ownership without transfer of management control

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The Union Cabinet approved the strategic disinvestment of six central public sector enterprises (CPSEs).[13] Table 2 shows the details of the CPSEs and their equity shareholding approved for disinvestment. Disinvestment in all of these CPSEs has been approved along with transfer of management control.

Table 2: List of CPSEs and their equity approved for disinvestment by the Cabinet

CPSE	Equity for disinvestment	Buyer
BPCL*	53.29%	-
NRL*	61.65%	Oil and gas sector CPSE
SCI	63.75%	-
CONCOR	30.8%	-
THDCIL	74.23%	National Thermal Power Corporation (NTPC)
NEEPCO	100%	NTPC

Note: *BPCL disinvestment excludes its 62% shareholding in NRL, for which disinvestment is being done separately. BPCL: Bharat Petroleum; NRL: Numaligarh Refinery; SCI: Shipping Corporation; CONCOR: Container Corporation; THDCIL: Tehri Hydro Development Corporation; NEEPCO: North Eastern Electric Power Corporation.
Sources: Press Information Bureau; PRS.

The Cabinet also allowed reduction in the central government's equity in certain CPSE to below 51%, while retaining the management control.[14] This will be done on a case to case basis and by taking into account the shareholdings of the government and the institutions under its control. The approval has been given with the aim of increasing the scale of disinvestment that can be carried out in certain CPSEs.

RBI announces opening of first cohort under Regulatory Sandbox

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The Reserve Bank of India (RBI) announced the opening of the first cohort under the Regulatory Sandbox.[15] RBI had released the enabling framework for regulatory sandbox in August 2019.[16] The sandbox provides an environment which allows market participants to test new products, services or business models with customers in a controlled environment.

For the first cohort, the theme of retail payments will be adopted to spur innovation in digital payments. RBI has called for applications for the following products/services under the above theme: (i) offline payment solutions, (ii) contactless payments, and (iii) feature phone based payment services.

RBI releases report of working group on regulatory and supervisory framework for core investment companies

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RBI released the report of the Working Group to review the regulatory and supervisory framework for Core Investment Companies (CICs).[17] A Core Investment Company is a non-banking financial company (NBFC) which engages in the business of acquisition of shares and securities. It should have at least 90% of its net assets in the form of investment in equity shares, bonds, debentures, debts or loans in group companies. It should also have at least 60% of its assets as investment in equity shares in group companies.

The Working Group observed that the structure of group companies becomes complex due to large companies with multiple layers. It noted that the provision of Companies Act, 2013 which restricts the group structure of companies to two layers does not apply to NBFCs (and therefore, does not apply to CICs).

It also observed that, unlike NBFCs, the exposure (in form of equity or loan) of CICs in a group company is not deducted from its capital. This, along with lack of restriction on number of layers, may lead to over leveraging (high exposure) by CICs. Further, the group observed that corporate governance guidelines are not explicitly applicable to CICs.

Considering the above, the working group made the following key recommendations:

- Capital contribution by a CIC in a step-down CIC (a subsidiary of a subsidiary), above 10% of its owned funds, should be deducted from its adjusted net worth,
- The number of layers of CICs in a group should be restricted to two.
- A step-down CIC may not be permitted to invest in any other CIC.
- Every group having a CIC should have a Group Risk Management Committee.
- Two Board level committees (Audit Committee, and Nomination and Remuneration Committee) should be mandatorily constituted.
- RBI may conduct periodic onsite inspection of CICs.

RBI revises liquidity risk management framework for NBFCs

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RBI issued final guidelines on the asset liability management and liquidity coverage ratio framework for non-banking financial companies (NBFCs).[18] An NBFC is a company which engages in the acquisition of government securities and shares, and business of loans or advances.[19] It does not accept demand deposits and cannot issue payment instruments. Further, more than half of its assets should comprise of financial assets (investment in equity shares, securities or loans).

Liquidity risk management framework aims to ensure adequate liquidity (NBFC's capacity to meet unexpected cash and collateral obligations without incurring unacceptable losses). This is done through high quality liquid assets (assets that can be readily sold or converted to cash, or used as collateral to obtain funds in situation of stress). The existing framework includes: (i) governance measures (such as composition of a risk management committee) and (ii) maturity profiling (measuring cash flows at different time buckets), among other measures.

The revised guidelines have also introduced Liquidity Coverage Ratio (LCR) as an added measure for liquidity risk management for certain categories of NBFCs. LCR is the ratio of the stock of high quality liquid asset to the total cash outflows of the NBFC, for a period of 30 days. As per the guidelines, all public deposit taking NBFCs and non-deposit taking (with an asset size of Rs 5,000 crore and above) will have to maintain a minimum LCR, in order to sustain acute liquidity stress scenarios (stress lasting for 30 days). These requirements (listed in Table 3) will progressively increase with time.

Table 3: Minimum LCR requirements

Date from	NBFC category 1	NBFC category 2
December 2020	50%	30%
December 2021	60%	50%
December 2022	70%	60%
December 2023	85%	85%
December 2024	100%	100%

Sources: RBI; PRS.

Category 1 NBFCs include all deposit taking NBFCs and non-deposit taking with an asset size of Rs 10,000 crore and above. Category 2 NBFCs include non-deposit taking NBFCs with an asset size between Rs 5,000 crore and Rs 10,000 crore. These requirements would be binding on the NBFCs from December 1, 2020.

Law and Justice

The Transgender Persons (Protection of Rights) Bill, 2019 passed by Parliament

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The Transgender Persons (Protection of Rights) Bill, 2019 was passed by Parliament. Key features of the Bill include:[20]

- **Definition of a transgender person:** The Bill defines a transgender person as one whose gender does not match the gender assigned at birth. It includes transmen and trans-women, persons with intersex variations, gender-queers, and persons with socio-cultural identities, such as kinnar and hijra. Intersex variations is defined to mean a person who at birth shows variation in his or her primary sexual characteristics, external genitalia, chromosomes, or hormones from the normative standard of male or female body.
- **Prohibition against discrimination:** The Bill prohibits the discrimination against a transgender person, including denial of service or unfair treatment in relation to: (i) education; (ii) employment; (iii) healthcare; (iv) access to, or enjoyment of goods, facilities, opportunities available to the public; (v) right to movement; (vi) right to reside, rent, or otherwise occupy property;

(vii) opportunity to hold public or private office; and (viii) access to a government or private establishment in whose care or custody a transgender person is.

- **Health care:** The government must take steps to provide health facilities to transgender persons including separate HIV surveillance centres, and sex reassignment surgeries. The government shall review medical curriculum to address health issues of transgender persons, and provide comprehensive medical insurance schemes for them.
- **Certificate of identity:** A transgender person may make an application to the District Magistrate for a certificate of identity, indicating the gender as 'transgender'. A revised certificate may be obtained only if the individual undergoes surgery to change their gender either as a male or a female.

For more details on the Bill, see here.

Supreme Court rules on restructuring of Tribunals through the Finance Act, 2017

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The Supreme Court passed a judgement regarding various provisions of the Finance Act, 2017 that pertained to restructuring of Tribunals.[21] The issues before the Supreme Court included: (i) whether the Finance Act, 2017 satisfies the requirements of a Money Bill under the Constitution, (ii) whether the Rules on Tribunals notified under the Act amount to excessive delegation, and (iii) whether the Rules are compatible with the Constitution and various decisions of the Supreme Court.

Certain provisions of the Finance Act, 2017 provide for the conditions of service of chairpersons and other members of Tribunals, and amend certain Acts to merge Tribunals. The Court did not decide on whether such provisions could be passed in a Money Bill and referred the issue to a seven judge bench. In particular, the reference was to interpret Article 110 of the Constitution, and to decide whether the word "only" in the definition of Money Bill means that any item other than those related to taxation or expenditure could be included.

Section 184 of the Finance Act, 2017 allows the central government to make rules regarding qualification, appointment, terms of services, and salary of chairperson, and other members of Tribunals and other authorities. The Court said that this does not amount to excessive delegation, and upheld the section.

However, the Court struck down the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2017. It held that these Rules were in conflict with the principles of the Constitution which have been settled through various judgements of the Supreme Court. For example, the Court noted that under the Rules, appointments of members of the Tribunals are largely made by the nominees of the central government and only token representation of the Chief Justice of India or his nominee. The Court referred to its earlier judgements where it had stressed on the need for an independent system of appointment and administration of Tribunals and having similar standards of appointment, qualifications and conditions of service as any other Court.[22,23]

Therefore, the Court held that these Rules amount to excessive interference of the executive in appointment of members of Tribunals and would be detrimental to the independence of the judiciary. It would undermine the principle of separation of powers between the executive and the judiciary. The Court directed the central government to reframe these rules in accordance with previous judgements of the Supreme Court related to working of Tribunals. The Court also passed an interim order that appointments to the Tribunals shall be in terms of the respective Acts before the enactment of the Finance Act, 2017.

Supreme Court strikes down provision of Arbitration and Conciliation (Amendment) Act, 2019

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The Supreme Court struck down a provision of the Arbitration and Conciliation (Amendment) Act, 2019 (which amended the Arbitration and Conciliation Act, 1996).[24] This provision clarified the date of applicability of an earlier amendment Act, i.e., the Arbitration and Conciliation (Amendment) Act, 2015. It stated that the 2015 Amendment Act would only apply to arbitral proceedings which started on or after October 23, 2015.

The 2015 Amendment Act amended the 1996 Act to introduce several changes. One of the provisions of the 1996 Act allowed a party to file an application to set aside an arbitral award (order given in an arbitration proceeding). Courts had interpreted this provision to mean that an automatic stay on an arbitral award was granted the moment an application for setting aside an arbitral award was made before a court. The 2015 Amendment Act changed this. The effect of the Amendment Act was that an arbitral award would not be automatically stayed merely because an application is made to a court to set aside the arbitral award.

However, the 2015 Amendment Act only applied to arbitral proceedings which started on or after October 23, 2015. It was not clear if it would apply to court proceedings which may have been filed after October 23, 2015 but were in connection with arbitral proceedings initiated before October 23, 2015. This provision was challenged before the Supreme Court and it was argued by various companies that in the absence of this clarity, the opposite side would continue to get an automatic stay on an arbitral award (given before October 23, 2015) even if the application to set it aside was filed after the date of the 2015 Act, i.e., October 23, 2015.

In 2018, the Supreme Court interpreted this provision to mean that the 2015 Amendment Act would apply to all arbitral proceedings initiated on or after October 23, 2015, *as well as* to court proceedings pending as of that date or initiated after that date.[25] The Court noted that any other interpretation would result in a delay in disposal of arbitration proceedings and increase the interference of courts in arbitration matters.

The 2019 Amendment Act re-inserted this provision on the applicability of the 2015 Amendment Act. This provision was challenged before the Supreme Court. The Court held that the new provision was manifestly arbitrary and violated Article 14 of the Constitution (right to equality). The provision was enacted without referring to the 2018 judgment of the Supreme Court. Therefore, it was enacted unreasonably, without adequate basis, and contrary to the public interest sought to be promoted by the 1996 Act and the 2015 Amendment Act.

Supreme Court brings office of Chief Justice of India under the Right to Information Act, 2005

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In the last decade, some pleas had been filed in the Delhi High Court and the Supreme Court's Central Public Information Officer (CPIO) seeking details of judges' appointments, assets and correspondences.[26] In 2010, the Delhi High Court held that the office of Chief Justice of India will come under the Right to Information Act, 2005 (RTI Act, 2005).[26] Consequently, the CPIO, Supreme Court filed an appeal against the decision of the Delhi High Court.

The questions before the Supreme Court included: (i) whether the office of Chief Justice of India would come under the RTI Act, 2005, and (ii) whether sharing such information would undermine judicial independence, and (iii) whether there are any exceptions to the sharing of information.

The Supreme Court upheld the 2010 judgement of the Delhi High Court and held that the office of the Chief Justice of India comes under the definition of "public authority" under the RTI Act, 2005. The Court further noted that while independence of the judiciary forms part of the basic structure of the Constitution, bringing the office of the CJI under the RTI Act would not undermine the independence of the judiciary. However, the Court stressed that when public interest demands the disclosure of information, judicial independence must be kept in mind.

Supreme Court upholds disqualification of 17 Karnataka MLAs

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The Supreme Court upheld the decision of former Karnataka Speaker for disqualification of 17 MLAs. However, it allowed them to contest in re-elections. In July 2019, the then Karnataka Speaker disqualified 17 MLAs till the end of the Assembly term, under the anti-defection law.[27] 15 of these MLAs had submitted their resignations before the decision of their disqualification. These MLAs argued that they have the right to resign and the Speaker should accept their resignations immediately as they personally informed him that the resignation is voluntary and genuine.

The questions before the Court were: (i) what is the role of the Speaker in deciding whether to accept or reject a resignation, (ii) whether the order of the Speaker rejecting the resignation and disqualifying the MLAs is valid, and (iii) whether the Speaker can disqualify the MLAs till the end of the term of the Assembly.

The Court held that the Speaker's role with regard to acceptance or rejection of a resignation is limited to examining whether such a resignation is voluntary or genuine. Further, it held that disqualification proceedings can be continued even if members have submitted resignations, when the act resulting in disqualification has arisen prior to the resignation. Otherwise, the object of the anti-defection law is defeated.

It upheld the order of the Speaker to the extent of disqualification of the 17 MLAs. However, it held that Speaker has no power to disqualify the members till the end of the Assembly term. The Court noted that the Constitution provides for certain sanctions for disqualified members.

These include a bar from being appointed as a Minister or holding any remunerative political post from the date of disqualification till the date of expiry of office, or re-election to the legislature, whichever is earlier.

Labour

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The Industrial Relations Code, 2019 introduced in Lok Sabha

The Industrial Relations Code, 2019 was introduced in Lok Sabha.[28] It seeks to replace three labour laws: (i) the Industrial Disputes Act, 1947, (ii) the Trade Unions Act, 1926, and (iii) the Industrial Employment (Standing Orders) Act, 1946. Key features of the Bill include:

- **Trade unions:** Under the Code, seven or more members of a trade union can apply to register it. Trade unions that have a membership of at least 10% of the workers or 100 workers, whichever is less, will be registered. Further, the central or state government may recognise a trade union or a federation of trade unions as Central or State Trade Unions respectively.
- **Negotiating unions**: The Code provides for a negotiation union in an industrial establishment for negotiating with the employer. If there is only one trade union in an industrial establishment, then the employer is required to recognise such trade union as the sole negotiating union of the workers. In case of multiple trade unions, the trade union with support of at least 75% of workers will be recognised as the negotiating union by the government.
- **Lay-off and retrenchment:** The Code defines lay-off as the inability of an employer, due to shortage of coal, power, or breakdown of machinery, from giving employment to a worker. It also provides for employers to terminate the services of a worker, i.e., retrenchment.
- Employers of industrial establishments with at least 100 workers are required to take prior permission of the central or state government before lay-off, retrenchment or closure of an establishment. The central or state government can modify this threshold number of workers by notification. Any person who contravenes this provision is punishable with a fine between one lakh rupees and Rs 10 lakh.
- **Resolution of industrial disputes:** The central or state governments may appoint conciliation officers to mediate and promote settlement of industrial disputes. These officers will investigate the dispute and hold conciliation proceedings to arrive at a fair and amicable settlement of the dispute. If no settlement is arrived at, then any party to the dispute can make an application to an Industrial Tribunal set up under the Code.

For a PRS summary of the Bill, see here.

Health and Family Welfare

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The Prohibition of Electronic Cigarettes Bill, 2019 was passed by Lok Sabha

The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Bill, 2019 was introduced and passed by Lok Sabha.[29] It replaces an Ordinance promulgated in September 2019. The Bill seeks to prohibits the production, trade, storage, and advertisement of electronic cigarettes.

- **Electronic cigarettes:** The Bill defines electronic cigarettes (e-cigarettes) as electronic devices that heat a substance, which may contain nicotine and other chemicals, to create vapour for inhalation. These e-cigarettes can also contain different flavours and include all forms of electronic nicotine delivery systems, heat-not-burn products, e-hookahs, and other similar devices.
- **Banning of e-cigarettes:** The Bill prohibits the production, manufacture, import, export, transport, sale, distribution and advertisement of e-cigarettes in India. Any person who contravenes this provision will be punishable with imprisonment of up to one year, or a fine of up to one lakh rupees, or both. For any subsequent offence, the person will be punishable with an imprisonment of up to three years, along with a fine of up to five lakh rupees.
- **Storage of e-cigarettes:** Under the Bill, no person is allowed to use any place for the storage of any stock of e-cigarettes. If any person stores any stock of e-cigarettes, he will be punishable with an imprisonment of up to six months, or a fine of up to Rs 50,000 or both.

- Once the Bill comes into force, the owners of existing stocks of e-cigarettes will have to declare and deposit these stocks at the nearest office of an authorised officer. Such an authorised officer may be a police officer (at least at the level of a sub-inspector), or any other officer as notified by the central or state government.

For more details on the Bill, see here.

The Surrogacy (Regulation) Bill, 2019 referred to Select Committee

The Surrogacy (Regulation) Bill, 2019 was referred to a Rajya Sabha Select Committee.[30] The Bill was introduced and passed by Lok Sabha in August 2019. The Bill defines surrogacy as a practice where a woman gives birth to a child for an intending couple and agrees to hand over the child to them after the birth. Key features of the Bill include, as passed by Lok Sabha, include:

- **Regulation of surrogacy**: The Bill prohibits commercial surrogacy, but allows altruistic surrogacy. Altruistic surrogacy involves no monetary compensation to the surrogate mother other than the medical expenses and insurance coverage. Commercial surrogacy includes surrogacy or its related procedures undertaken for a monetary benefit or reward (in cash or kind) exceeding the basic medical expenses and insurance coverage.
- **Eligibility criteria for intending couple**: The intending couple should have a 'certificate of essentiality' and a 'certificate of eligibility' issued by the appropriate authority. A certificate of essentiality will be issued upon fulfilment of these conditions: (i) a medical certificate of proven infertility of one or both members of the intending couple, (ii) an order of parentage and custody of the surrogate child passed by a Magistrate's court, and (iii) insurance coverage for a period of 16 months covering postpartum delivery complications for the surrogate.
- The certificate of eligibility to the intending couple is issued upon fulfilment of the following conditions: (i) the couple being Indian citizens and married for at least five years; (ii) between 23 to 50 years old (wife) and 26 to 55 years old (husband); (iii) they do not have any surviving child (biological, adopted or surrogate); including a child who is mentally or physically challenged or suffers from life threatening disorder or fatal illness; and (iv) other conditions that may be specified by regulations.
- **Eligibility criteria for surrogate mother**: To obtain a certificate of eligibility, the surrogate mother has to be: (i) a close relative of the intending couple; (ii) a married woman having a child of her own; (iii) 25 to 35 years old; (iv) a surrogate only once in her lifetime; and (v) possess a certificate of medical and psychological fitness for surrogacy. In addition, the surrogate mother cannot provide her own gametes for surrogacy.

For more details on the Bill, please see here

Standing Committee submits report on the National Commission for Homoeopathy Bill, 2019

The Standing Committee on Health and Family Welfare (Chairperson: Prof. Ram Gopal Yadav) submitted its report on the National Commission for Homoeopathy Bill, 2019.[31] The Bill seeks to repeal the Homoeopathy Central Council Act, 1973 and provide for regulation of education and practice of homoeopathy medicine. Key observations and recommendations of the Committee are summarised below:

- **Composition of the National Commission for Homoeopathy (NCH):** The Committee observed that the strength of the NCH and the representation from states as proposed in the Bill must be increased for its effective functioning. It also noted the lack of proper representation of elected medical professionals in the composition of the NCH as 80% of them are nominated. The Committee recommended that the total strength of the NCH be increased from 20 members to 27 members. These 27 members will include the Chairperson, 7 ex-officio members, 10 members who are nominees of states/UTs (part-time), six elected registered medical practitioners (part-time), and 3 other part-time members.
- With regard to the composition of the three Autonomous Boards under the NCH, the Committee recommended that the strength of the Medical Assessment and Rating Board and the Board of Ethics and Registration should be enhanced to four instead of three members.
- **Fee regulation:** The Committee noted that states have an existing process to regulate fees charged by private medical colleges. This is done by taking into account local factors, reservation quota, and other issues prevailing in respective states. However, there is no provision in the Bill for regulation of fees of homoeopathy colleges. The absence of fee regulation may result in charging of high fees by private medical colleges. Hence, the

Committee recommended fee regulation for at least 50% of seats in private medical colleges, and deemed-to-be universities.

- **Appellate jurisdiction:** The central government has the appellate jurisdiction over the decisions taken by the NCH. In this regard, the Committee stated that giving the appellate jurisdiction to the central government does not fit into the constitutional provision for separation of powers. It recommended constitution of a Medical Appellate Tribunal for Indian System of Medicine and Homoeopathy. This body will have appellate jurisdiction over the decisions taken by the NCH instead of the central government.

For a PRS Summary of the Report, see here.

Standing Committee submits report on the National Commission for Indian System of Medicine Bill, 2019

The Standing Committee on Health and Family Welfare (Chairperson: Prof. Ram Gopal Yadav) submitted its report on the National Commission for Indian System of Medicine Bill, 2019.[32] The Bill seeks to repeal the Indian Medicine Central Council Act, 1970 and provide for the regulation of education and practice of Ayurveda, Unani, Siddha, and Sowa-Rigpa. Key observations and recommendations of the Committee are summarised below:

- **Composition of the National Commission for Indian System of Medicine (NCISM):** The Committee observed that the strength of the NCISM and the representation from states as proposed in the Bill must be increased for its effective functioning. It noted that there were eight lakh registered AYUSH doctors in India. Of these, 56% of doctors belong to Ayurveda, 6.4% to Unani, and 1.4% to Siddha and Naturopathy. The Bill provides for three members to be elected from Ayurveda and one each from Unani, Siddha and Sowa-Rigpa. To ensure proportionate representation of doctors, the Committee recommended increasing the representation of Ayurveda doctors from three members to six members. It recommended that the total strength of the NCISM be increased from 29 members to 44 members. These 44 members will include the Chairperson, 20 ex-officio members, and 23 part-time members.
- **Autonomous Boards:** The Bill sets up certain autonomous boards under the supervision of the NCISM. These boards are: (i) the Board of Ayurveda and the Board of Unani, Siddha, and Sowa-Rigpa, (ii) the Medical Assessment and Rating Board for Indian System of Medicine, and (iii) the Ethics and Medical Registration Board. To provide for a central regulatory framework for Yoga and Naturopathy, the Committee recommended setting up a Board of Yoga and Naturopathy. It also proposed the constitution of a Board of Research.
- **Appellate jurisdiction:** The central government has the appellate jurisdiction over the decisions taken by the NCISM. In this regard, the Committee stated that giving the appellate jurisdiction to the central government does not fit into the constitutional provision for separation of powers. It recommended constitution of a Medical Appellate Tribunal for Indian System of Medicine and Homoeopathy. This Tribunal will have appellate jurisdiction over the decisions taken by the NCISM instead of the central government.

For a PRS Summary of the Report, see here.

Home Affairs

Special Protection Group (Amendment) Bill, 2019 passed in Lok Sabha

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The Special Protection Group (Amendment) Bill, 2019 was passed by Lok Sabha.[33] The Bill amends the Special Protections Group Act, 1988. The Act provides for constitution and regulation of the Special Protection Group (SPG) for providing security to the Prime Minister, former Prime Ministers, and their immediate family members. Key features of the Bill include:

- Under the Act, the SPG provides security to the Prime Minister and his immediate family members. It also provides security to former Prime Ministers and their immediate family members for a period of one year from the date on which they cease to hold the office. Beyond this period, the SPG security is provided based on the level of threat as decided by the central government. The threat must: (i) emanate from a military or terrorist organisation, and (ii) be of a grave and continuing nature.
- The Bill amends this provision to state that the SPG will provide security to the Prime Minister, and members of his immediate family residing with him at his official residence. It will also provide security to any former Prime Ministers, and his immediate family members residing with

him at the residence allotted to him. This security will be provided for a period of five years from the date on which he ceases to hold the office of Prime Minister.

- The Act provides that if the SPG security is withdrawn from a former Prime Minister, it will also be withdrawn from his immediate family members, unless the level of threat faced by the immediate family member warrants such security. The Bill removes this condition to state that if the SPG security is withdrawn from a former Prime Minister, it will also be withdrawn from his immediate family members.

For a PRS summary of the Bill, see here.

Arms Act amendments introduced

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The Arms (Amendment) Bill, 2019 was introduced in Lok Sabha by the Minister of Home Affairs, Mr. Amit Shah. [34] The Bill amends the Arms Act, 1959. It seeks to decrease the number of licensed firearms allowed per person and increases penalties for certain offences under the Act. It also introduces new categories of offences. Key features include:

- **License for acquiring firearms:** The Bill reduces the number of permitted firearms from three to one. This includes licenses given on inheritance or heirloom basis. The Bill provides a time period of one year to deposit excess firearms. The Bill also increases the duration of a firearm license from three years to five years.
- **Increase in punishment:** The Bill enhances the punishment for various offences. For example, the Act specifies the punishment for: (i) dealing in un-licensed firearms, (ii) shortening or converting a firearm without a licence, and (iii) importing or exporting banned firearms. The punishment for these offences is between three years and seven years, along with a fine. The Bill increases the punishment to between seven years and life imprisonment, along with a fine.
- **New offences**: The Bill adds news offences. These include: (i) forcefully taking a firearm from police or armed forces, punishable with imprisonment between 10 years and life imprisonment, and a fine, and (ii) using firearms in a celebratory gunfire which endangers human life or personal safety of others, punishable with imprisonment of up to two years or fine of up to one lakh rupees, or both.
- The Bill also defines offences committed by organised crime syndicates and illicit trafficking. Possession of firearms or ammunition by a member of a syndicate, in violation of the Act, will be punishable with imprisonment between 10 years and life, along with a fine. This punishment will also apply to anyone dealing in un-licensed firearms, converting a firearm without license, or importing or exporting firearms without license, on behalf of a syndicate. Illicit trafficking is punishable with imprisonment between 10 years and life, along with a fine.

For a PRS report summary, see here.

The Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Bill, 2019, passed by Lok Sabha

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The Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Bill, 2019 was passed by Lok Sabha.[35] The Bill provides for the merger of the Union Territories (UTs) of Dadra and Nagar Haveli, and Daman and Diu into a single UT. The Bill makes consequential amendments including retaining the representation in Lok Sabha, the jurisdiction of the High Court of Bombay, and provisionally allotting all officials of the two UTs to the merged UT.

For a PRS Bill summary, see here.

Draft Private Security Agencies Central (Amendment) Model Rules, 2019 released for public feedback

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The Ministry of Home Affairs released the draft Private Security Agencies (Amendment) Model Rules, 2019.[36,37] The Rules seek to amend the Private Security Agencies Central Model Rules, 2006, which propose enforcement details for provisions of the Private Security Agencies (Regulation) Act, 2005. The Private Security Agencies (Regulation) Act, 2005 regulates functioning of the private security agencies. Private security agencies are non-government entities engaged in business of providing security services including providing security guards and training them.

Key amendments proposed include:

- Instead of manual police verification (as in 2006 Rules), the controlling authority will utilise electronic databases of crime and criminals for background verification of the applicant. Such databases include the International Criminal Justice System.

- Aadhaar number will be used to prove the identity of an applicant. Currently, this is done by police verification.
- Currently, character and background verification report once issued is valid for three years. The modified Rules permit it to be valid for three years irrespective of the change in employer status of the individual.
- The syllabus for training the security guards will be in accordance with the National Skill Qualification Framework. This framework organizes qualifications according to levels of knowledge and skills and sets out standardised training outcomes.

Comments on the draft Amendment Rules are invited till December 6, 2019.

Housing and Urban Affairs

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The NCT of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Bill, 2019 passed by Lok Sabha

The National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Bill, 2019 was passed by Lok Sabha.[38] The Bill provides for recognising the property rights of residents of certain unauthorised colonies in the National Capital Territory of Delhi. Key features include:

- **Recognition of property rights:** The Bill provides that the central government may regularise transactions of immovable properties held by residents of certain unauthorised colonies, through notification. These transactions could be regularised based on documents including the latest power of attorney, agreement to sale, will, or possession letter. Any resident of an unauthorised colony having these documents will be eligible to obtain the right of ownership through a conveyance deed or an authorisation slip.
- **Resident:** The Bill defines a resident as a person with physical possession of property on the basis of a registered sale deed or certain other documents. The definition includes legal heirs of residents but does not include any tenant, licensee, or persons permitted to use the property.
- **Unauthorised colony:** An unauthorised colony is defined as a colony or development comprising of an adjoining area, where no permission has been obtained for the approval of layout or building plans. Further, the Delhi Development Authority must have had notified the colony for regularisation.
- **Payment of charges**: The residents will be required to pay certain charges to obtain such ownership. These charges may be notified by the central government. Stamp duty and registration charges will also be payable on the amount mentioned in the conveyance deed or the authorisation slip.

For a PRS Bill summary, see here.

Transport

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Recycling of Ships Bill, 2019 introduced in Lok Sabha

The Recycling of Ships Bill, 2019 was introduced in Lok Sabha.[39] The Bill restricts the use of hazardous material on ships and regulates the recycling of ships. Key features include:

- **Applicability of the Bill:** The Bill will apply to: (i) any new or existing ship which is registered in India, (ii) ships entering a port or terminal in India, or the territorial waters of India, (iii) any warship, or other ship owned and operated by an administration and used on government non-commercial service, and (iv) ship recycling facilities operating in India.
- **Ship recycling:** The Bill defines ship recycling as the dismantling of a ship at a facility to recover the components and materials for reuse, and taking care of the hazardous material so produced.
- **Requirements for ships:** Ships should not use prohibited hazardous materials as notified. The central government may exempt certain categories of ships from this requirement. The National Authority will carry out periodic surveys to verify the prescribed requirements. This Authority will be notified by the central government to administer, supervise and monitor all activities related to ship recycling.

- **Recycling facilities:** Ships will be recycled only in authorised recycling facilities. An application to authorise such a facility must be submitted to the Competent Authority (which will be notified by the central government) along with a ship recycling facility management plan, and prescribed fee. Existing facilities must apply for authorisation within 60 days of the commencement of the Act. A facility will be authorised when the Competent Authority is satisfied that it follows the specified standards. The certificate of authorisation will be valid for a period as specified but not exceeding five years. Contravening these provisions will be punishable with imprisonment of up to one year, or a fine of up to Rs 10 lakh, or both.

For a PRS summary of the Bill, see here.

Commerce and Industry

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The National Institute of Design (Amendment) Bill, 2019 passed by Parliament

The National Institute of Design (Amendment) Bill, 2019 was passed by Parliament.[40] The Bill seeks to amend the National Institute of Design Act, 2014, which declares the National Institute of Design, Ahmedabad as an institution of national importance.

- The Bill seeks to declare four National Institutes of Design in Andhra Pradesh, Madhya Pradesh, Assam, and Haryana as institutions of national importance.
- Currently, these institutes are registered as Societies under the Societies Registration Act, 1860 and do not have the power to grant degrees. On being declared institutions of national importance, the four institutes will be granted the power to grant degrees.

For a PRS summary of the Bill, see here.

Culture

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The Jallianwala Bagh National Memorial (Amendment) Bill, 2019 passed by Parliament

The Jallianwala Bagh National Memorial (Amendment) Bill, 2019 was passed by Parliament.[41] It amends the Jallianwala Bagh National Memorial Act, 1951. The Act provides for the erection of a National Memorial in memory of those killed or wounded on April 13, 1919, in Jallianwala Bagh, Amritsar. It creates a Trust to manage the National Memorial.

- **Composition of Trust:** Under the 1951 Act, the Trustees of the Memorial include: (i) the Prime Minister, as Chairperson, (ii) the President of the Indian National Congress, (iii) the Minister in-charge of Culture, (iv) the Leader of Opposition in Lok Sabha, (v) the Governor of Punjab, (vi) the Chief Minister of Punjab, and (vii) three eminent persons nominated by the central government. The Bill amends this provision to remove the President of the Indian National Congress as a Trustee. Further, it clarifies that when there is no Leader of Opposition in Lok Sabha, then the leader of the single largest opposition party in the Lok Sabha will be the Trustee.
- The Act provides that the three eminent persons nominated by the central government will have a term of five years and will be eligible for re-nomination. The Bill adds a proviso to allow the central government to terminate the term of a nominated trustee before the expiry of his term without assigning any reason.

For a PRS summary of the Bill, see here.

Corporate Affairs

Rules notified for insolvency resolution of non-banking finance companies

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The Ministry of Corporate Affairs notified the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authorities) Rules, 2019.[42] These Rules were issued under the Insolvency and Bankruptcy Code, 2016. The Code provides a time-bound process for resolving insolvency in companies and among individuals.

The Rules create a framework for insolvency resolution of financial service providers (FSPs) or a category of FSPs notified by the central government. Currently, the government has notified non-banking finance companies (including housing finance companies) with an asset size of Rs 500 crore or more as FSPs.[43]

The Rules state that the process for insolvency resolution, liquidation and voluntary liquidation of corporate debtors will also apply to FSPs with modifications. These modifications include:

- **Resolution**: The insolvency resolution process can only be initiated by a financial regulator notified by the National Company Law Tribunal (NCLT). This is different from the provisions for non-financial companies which allows any financial creditor to file an application before the NCLT for initiating the insolvency resolution process of a corporate debtor.
- The NCLT will appoint an administrator proposed by the regulator to handle the insolvency resolution. Approval of any resolution plan will require a 'no objection' from the regulator in relation to the persons who will take over the management of the FSP. During the resolution process, the license or registration of the FSP cannot be suspended or cancelled.
- **Liquidation**: During the liquidation of the FSP, the license or registration of the FSP cannot be suspended or cancelled, without giving an opportunity of hearing to the liquidator. Further, if an FSP makes an application for voluntary liquidation, it will need the prior permission of the regulator.

Company Law Committee releases report

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The Company Law Committee (Chair: Mr. Injeti Srinivas) submitted its report to the Ministry of Corporate Affairs. The Committee made recommendations to the government about the re-categorisation of certain criminal offences in the Companies Act, 2013. It also suggested certain other changes to facilitate the ease of doing business. Key observations and recommendations include:

- **Rationale for re-categorisation:** The Committee observed that a balance must be struck between civil and criminal sanction when dealing with corporate conduct. Serious violations of the law, especially wrongful conduct involving fraudulent elements, should be dealt with under criminal law. However, procedural, technical, and minor non-compliance may be dealt with through civil jurisdiction.
- **In-house adjudication:** The Committee noted that certain offences involve objective determinations or lack exercise of discretion and do not affect substantial public interest. These offences may be treated under an In-house Adjudication Mechanism (IAM) under the Adjudicating Officer. Such offences include those relating to non-disclosure of information by the owner of a company.
- **Offences to be omitted or dealt with under alternative frameworks:** The Committee believed that certain offences could be dealt with through other laws or alternative mechanisms. It recommended that seven offences be omitted. These offences may be omitted from the Act. These include those relating to non-compliance with National Company Law Tribunal orders regarding failure to redeem debentures. The Committee also recommended that five offences be dealt with under alternative frameworks such as the Insolvency and Banking Code. These offences included those relating to non-cooperation of promoters or directors with the company liquidator.
- **Offences restricted to fine only:** The Committee noted that certain offences were severe enough to warrant criminal liability but not necessitate incarceration. The imposition of a penalty as punishment would suffice. These offences included those relating to non-compliance of companies with charitable objects (such as the promotion of social welfare) with the requirements imposed on them.
- **Ease of living related changes:** The Committee suggested certain changes relating to improving the ease of living in the country for corporates. These include enabling the centre to enhance limits on Corporate Social Responsibility obligation thresholds to help improve CSR compliance.

For a PRS report summary, please see here.

Food and Public Distribution

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Cabinet approves an increase in FCI's authorised capital to Rs 10,000 crore

The Union Cabinet approved an increase in the authorised capital of Food Corporation of India (FCI) from Rs 3,500 crore to Rs 10,000 crore.[44] Authorised capital is the maximum amount of capital that can be issued by a company to its shareholders. All shares of FCI are held by the central government, and this amendment will help increase its equity base.

Consumer Affairs

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Draft amendments increasing penalty for improper use of emblems, names released

The Department of Consumer Affairs released draft amendments to the Emblems and Names (Prevention of Improper Use) Act, 1950.[45] The Act prevents the improper use of certain emblems and names for professional and commercial purposes. The draft amendments propose to increase the maximum penalty for improper use of emblems and names from Rs 500 to one lakh rupees. Further, a higher penalty has been specified for repeat offenders, which is either a fine of up to five lakh rupees, or an imprisonment of up to six months, or both.

Comments on the draft amendments are invited till December 20, 2019.

Certain draft rules released under the Consumer Protection Act, 2019

The Department of Consumer Affairs released certain draft rules and regulations under the Consumer Protection Act, 2019 for public comments.[46,47,48] The rules and regulations cover various aspects, including: (i) prevention of unfair trade practices in e-commerce (business to consumer) and direct selling, (ii) the Consumer Disputes Redressal Commissions and the Central Consumer Protection Council, (iii) members of the District and State Consumer Disputes Redressal Commissions, and (iv) mediation of disputes. Key features of the draft rules include:

- **Liabilities of e-commerce entities:** An ecommerce entity is prohibited from: (i) directly or indirectly influencing the price and is required to maintain a level playing field, (ii) adopting any unfair or deceptive practices that may influence decisions of consumers, and (iii) falsely representing themselves as consumers and posting reviews, or misrepresenting the quality or features of goods and services.
- Other liabilities of e-commerce entities include: (i) displaying terms of contract between them and the sellers, (ii) ensuring advertisements of goods and services are consistent with their actual characteristics, and (iii) ensuring personally identifiable information of customers is protected and its usage complies with the legal provisions.
- **Liabilities of sellers:** Liabilities of sellers (who advertise or sell on e-commerce platforms) include: (i) displaying all the charges associated with sale of products, such as delivery charges and taxes, (ii) stating upfront the policies regarding shipping, exchange, return, refund, and warranty, and (iii) complying with statutory provisions for display and sale of products.
- **Fee for filing complaints:** The draft rules specify the fee required to be paid for filing a complaint with the Consumer Disputes Redressal Commissions. The fee depends on the value of goods or services under the complaint and the compensation claimed. No fee is required to be paid, if such value or compensation is up to five lakh rupees. The fee ranges between Rs 200 and Rs 7,500 for complaints filed for higher values.
- **Number of members in the National Commission:** The Act provides that the National Consumer Disputes Redressal Commission will consist of at least four members. The draft rules specify that it cannot have more than 11 members, and at least one of the members must be a woman.

Information and Broadcasting

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Draft Registration of Press and Periodicals Bill, 2019 released

The Ministry of Information and Broadcasting published the Draft Registration of Press and Periodicals Bill, 2019.[49] The draft Bill seeks to replace the Press and Registration of Books Act, 1867.[50] Key features of the draft Bill include:

- **Applicability:** The draft Bill provides for regulation of printing presses engaged in publishing newspapers and other periodicals, and books meant for public distribution. It also provides for regulation of publishers of news on digital media. News on digital media has been defined as the news in a digitised format that can be transmitted over internet, computer, or mobile networks, News on digital media is currently not covered under the Act.

- **Regulatory Authority:** The Act provides for a Registrar of Newspaper for India (RNI). The draft Bill provides for a new authority named Press Registrar General of India. Functions of the Press Registrar General will include: (i) issuing a certificate of registration to a publication, (ii) maintaining a register of registered newspapers and other periodicals, and (iii) framing guidelines for admissibility and availability of title of a periodical. The Press Registrar General will have powers to: (i) seek information from publications, (ii) revise, or suspend the registration of a periodical, and (iii) impose fine and penalty.
- **Registration of publishers:** A printing press engaged in any kind of publication will be required to furnish intimation containing certain specified information before the District Magistrate or any other specified authority. A printing press engaged in publication of periodicals will be required to register with the Press Registrar General. A publisher of news on digital media will be required to register with the Registrar of Newspaper for India. The draft Bill removes various provisions related to registration of books under the Act.
- **Criteria for benefits from government:** Central and state governments may prescribe conditions under which they will issue advertisement, grants or any other benefits to the publications.
- **Offences and penalties:** Under the Act, a publisher may be subject to a punishment of Rs 2,000, or imprisonment for a term up to six months, or both for violating the provisions of the Act. The draft Bill removes the provision for imprisonment. The fine has been increased to Rs 50,000, along with revocation of registration.

TRAI invites consultation on interoperability of set top box

Telecom Regulatory Authority of India (TRAI) released a consultation paper on the interoperability of set top boxes.[51] A set-top box is a device that receives digital signal, decodes and displays it on television. At present, a set top box of one service provider cannot be used for accessing television broadcasting services of another service provider. If a subscriber wants to change one’s service provider, a new set top box has to be purchased. Interoperability of set top box will provide consumers with the freedom to change their service provider without changing their set top boxes.

TRAI has sought views on the following: (i) desirability for interoperability of set top boxes, (ii) interoperability of set top boxes between Direct to Home and cable platforms, (iii) open market availability of interoperable set top boxes, and (iv) software-based solutions for interoperability of set top boxes.

Comments on the consultation paper are invited till December 9, 2019.

TRAI releases recommendations on platform services by DTH operators

TRAI has released recommendations on platform services offered by Direct to Home (DTH) operators.[52] There are different types of distribution service providers of TV channels based on the technology used for distribution including DTH services, local cable operators, and Internet Protocol Television Services. All distribution service providers offer certain programs which are specific to each platform and are not obtained from satellite-based broadcasters. These programs are referred to as platform services. Platform services provide the operators with an additional source of revenue through subscription of such services as well as advertisements on these services. Unlike satellite TV channels, platform services are not subject to any specific regulations as of now.[52] Key recommendations are as follows:

- **Definition of platform services:** Platform services have been defined as the programs transmitted by operators exclusively to their own subscribers. They do not include Doordarshan channels, registered satellite TV channels, or foreign TV channels not registered in India.
- **Registration:** The DTH operator will be required to register the platform service channel with the appropriate authority, and pay Rs 10,000 for every such channel.
- **Sharing of platform services:** The platform services provided by one operator will be exclusive to itself, and will not be shared with another operator. Violation of this provision may lead to cancellation of registration of the platform service channel which was shared.

- **Cap on number of platform services:** The total number of platform services that an operator can offer will be 3% of total channel carrying capacity of the operator platform, or 15, whichever is higher.
- **Distinction from satellite TV channels:** To distinguish from satellite TV channels, the platform services will be categorised as "Platform Services" in the program guide of TV channels.

Telecom

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Cabinet approves deferred payment of spectrum auction instalments

The Union Cabinet has approved the deferred payment of spectrum auction instalments for telecom service providers (TSPs).[53] TSPs will have the option to defer payments due for the years 2020-21 and 2021-22, for one or both years. The deferred payment will be spread equally in the remaining instalments to be paid by TSPs. Interest charges will be applicable as per the provisions under the terms and conditions of the spectrum allotment.

TRAI seeks views on interconnection termination charges for international calls

TRAI released a consultation paper on review of interconnection termination charges for international calls.[54] Interconnection between two public telecom networks allows consumers of one service provider to communicate with consumers of the other service provider.

Interconnection Usage Charge (IUC) is the cost that a mobile operator pays to another operator for carrying through a call. IUC mainly consists of origination, termination, carriage, and transit charges. One of the components of IUC is International Transmission Charge which is the charge payable by an operator, calling from outside the country, to the access provider in the country. As per the existing regulations, the international termination charges for outgoing calls are negotiated between the domestic and foreign service providers.[54] However, TRAI specifies a fixed and uniform rate for international termination charges for incoming calls. Currently, the specified international termination charges for incoming calls is Rs 0.30 per minute.[54]

In many cases, the foreign operators fix comparatively high international termination rates for outgoing calls from India.[54] Such high rates for termination are fixed either by their regulator or by such TSPs themselves after commercial negotiations.[54] Keeping this discrepancy in view, TRAI has sought comments on whether the existing regime of fixed and uniform international termination charges for incoming calls should be changed. It has invited suggestions on alternate mechanisms for deciding rates. Comments are invited till December 9, 2019.

Steel

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Ministry of Steel released Steel Scrap Recycling Policy

The Ministry of Steel released the Steel Scrap Recycling Policy.[55] The policy seeks to provide a framework to promote the establishment of metal scrapping centres for processing and recycling of steel scrap generated from various sources such as appliances and vehicles.

The policy provides guidelines for collection, dismantling and shredding activities in an organised, safe, and environment-friendly manner. It describes the roles and responsibilities of collection centres, dismantling centres, scrap processing centres, and the government as follows:

Collection centres: Collection centres include individuals, local scrap dealers, and distributors engaged in the collection of scrap. The collection centres may also assist the processing centres in initial segregation and sorting of scraps. The collection centres may work closely with processing centres for compliance to the scrap specifications and codes prescribed by Bureau of Indian Standards (BIS).

Dismantling and processing centres: The dismantling and scrap processing centres will be required to adhere to the existing rules related to factories and other industrial norms. These centres will be required to comply with various regulations related to environment, pollution control, occupational safety, and management of waste including hazardous waste, among others.

Government: The Ministry of Steel will work towards promoting: (i) ease of doing business in setting up scrapping centres, (ii) research and development, (iii) skill development, (iv) development of quality standards, and (v) creation of a competitive market in the steel scrapping sector.

An Inter-Ministerial Coordination Committee will be set up with representation from various Ministries and Departments including: (i) steel, (ii) road transport and highways, (iii) heavy industry, (iv) environment, and (v) Labour. The Committee will monitor the operationalization of the policy and enforcement of related regulation.

Draft policy for the development of steel clusters released

The Ministry of Steel released a Draft Framework Policy for the development of steel clusters in the country.[56] A steel cluster is a defined area with multiple units across the steel value chain located in proximity to each other.

The policy seeks to promote self-sufficiency, cost competitiveness, and development of small and medium enterprises in steel manufacturing. Salient features of the policy are as follows:

Types of clusters: The policy seeks to develop the following types of clusters:

(i) Ancillary and downstream clusters: These clusters will be developed near steel plants. Such clusters will mainly focus on ancillary units and fabrication units. Ancillary units involve in manufacturing parts to be used by larger industries.

(ii) Value-added steel cluster: These clusters will be located near demand centres. A demand centre is a central or regional hub of shared marketing services, infrastructure, and processes. Such clusters will have secondary steel industry units engaged in the production of alloys such as stainless steel, and carbon steel.

Provisions for clusters: The clusters will be provided with: (i) logistics connectivity through railways, roadways, inland waterways, and enhanced port capacity, (ii) power supply with rationalised tariff and provisions for captive power generation, and (iii) availability of land with single window for clearance and approvals within specified timeframe.

Eligibility for setting up cluster: A cluster may be set up by: (i) a land-owning entity such as state government, central and state public sector enterprises, state industrial development organisations as well as private players, (ii) a non-land-owning entity with prior consent of a land-owning entity for the required land, and (iii) institutions managing existing clusters.

The criteria for evaluation of an application will include employment creation, past record, implementation schedule, and value of output.

Institutional framework: The Ministry will create a working group and a task force for the initiation of the project. The working group will develop a detailed action plan. The task force will be responsible for the evaluation and approval of the action plan. A special purpose vehicle will be created by the Ministry for set-up and operationalisation of the cluster.

Financial support: Financial support from the Ministry will involve: (i) coverage of cost for planning, (ii) funding through the utilisation of existing central and state schemes, policies and funds, and (iii) funding through its own scheme from budgetary resources.

Power

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Waiver in inter-state transmission charges for electricity generated using solar and wind energy extended

In 2016, the Ministry of Power announced waiver of the inter-state transmission charges and losses on electricity generated using solar and wind energy.[57] The objective of the waiver was to encourage the adoption of renewable sources of energy. Earlier, the waiver was available to solar and wind power projects commissioned up to March 31, 2022. This period has now been extended to December 31, 2022.[57]

The waiver is available to solar and wind power projects which: (i) have entered power purchase agreements with distribution companies to fulfil their renewable purchase obligations, and (ii) have been awarded the contracts through a competitive bidding process. The waiver is available for a period of 25 years from the date of commissioning of the projects.

Implementation guidelines for one of the components of PM-KUSUM scheme released

The Pradhan Mantri Kisan Urja Suraksha evam Utthaan Mahabhiyan (PM-KUSUM) seeks to provide financial and water security to farmers.[58] Under the Component-C of this scheme, 10 lakh agriculture pumps of individual pump capacity up to 7.5 HP are to be solarised by 2022.[58] The Ministry of New and Renewable Energy has released guidelines for the implementation of this component of the scheme.[59]

The Component-C of the PM-KUSUM scheme seeks to: (i) promote the use of solar energy to meet the irrigation needs, and (ii) enable farmers to earn additional income by selling surplus solar power to the distribution companies (also known as net metering). A pilot phase will be carried out with a target of installation of one lakh such agricultural pumps.[59] Further implementation of the scheme will be based on evaluation of the pilot phase.

Key features of the guidelines are as follows:

Implementation model: Solarised agricultural pumps can function in two ways: (i) drawing power from the solar panel and the conventional electricity grid, and (ii) drawing power only from solar panel. Implementing agencies may choose either or a combination of the above options. The states are also allowed to devise their own system other than the given options.

Selection of feeder: The scheme will be implemented feeder wise. Feeders will be selected based load, technical losses, commercial losses, and the number of consumers.

Financial assistance: The central government will provide financial assistance of up to 30% of the cost of solarisation of the pump (of up to 7.5 HP).

Tariff for power procurement: The tariff for procurement of surplus power from farmers will be specified by the concerned state electricity regulatory commissions. The distribution companies may introduce time of day tariff (different rate at different time of day) for efficiently managing demand and supply. Smart meters will be deployed for real-time monitoring.

Adherence to specified standards: Systems installed under the scheme will be required to meet the standards specified by the Ministry and Bureau of Indian Standards (BIS).

External Affairs

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Brasilia Declaration released after the 11th BRICS summit

India participated in the 11th BRICS summit held on November 14, 2019.[60] After the summit, Brazil, Russia, India, China, and South Africa released a joint statement referred to as the Brasilia Declaration. The Declaration addressed strengthening global multilateral systems, economic cooperation, regional conflicts, and intra-BRICS ccoperation. Key features of the Declaration include:

- **Strengthening multilateral systems:** The Declaration addressed the need for inclusivity in the multilateral system, including the United Nations, its Security Council, the International Monetary Fund, and the World Trade Organisation. Further, observing the importance of the sustainable development goals and the Paris agreement on climate change, it addressed the need for developed countries to provide resources and other assistance to developing countries.
- **Economic cooperation:** The Declaration highlighted the importance of trade between BRICS nations. Further, it observed the need for investment and infrastructure to improve trade. It condemned unilateral and protectionist measures, and recommended open markets and fair business and trade environment.
- **Regional conflicts:** The Declaration observed regional conflicts in Syria, Yemen, Israel-Palestine, the Gulf region, Libya, and Afghanistan. It recognised the need for collective efforts for peaceful settlement of disputes, and the role of the UN Security Council as bearing the primary responsibility for maintaining international peace and security.
- **Intra-BRICS cooperation:** The Declaration acknowledged cooperation among BRICS nations on various subjects such as security, science, technology, industrial growth, environment, energy, finance, trade, and fighting corruption.

Chancellor of Germany visits India

The Chancellor of Germany, Angela Merkel, visited India on November 1, 2019. During her visit, both the countries signed agreements on various subjects including: (i) consultations between the Ministry of External Affairs and the German Ministry of Foreign Affairs for the period of 2020-24, (ii) partnership for green urban mobility, (iii) research and development on artificial intelligence, and (iv) prevention of marine litter.[61]

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