PRS Capsule September 2019

Key Highlights of PRS

Polity

Ladakh under 6th Schedule of the Constitution

- The **National Commission for Scheduled Tribes** has recommended the **inclusion of Ladakh under the Sixth Schedule** of the Indian Constitution.
- The commission noted that the newly created Union Territory of Ladakh is **predominantly a tribal region,** with a total tribal population of approximately 97%.
  - Further, it was observed that prior to the creation of the Union Territory, people in Ladakh had certain agrarian rights including land rights, which restricted the purchase of land in Ladakh by people from the rest of the country.
  - Additionally, the Commission stated that Ladakh has several **distinct cultural heritages,** which need to be preserved and promoted.
- In this context, the commission recommended the **inclusion of Ladakh under the Sixth Schedule,** will allow:
  - Democratic devolution of powers.
  - Preservation and promotion of culture.
  - Protection of agrarian and land rights.
  - Enhanced transfer of funds for the development of Ladakh.

Sixth Schedule

- The Sixth Schedule of the Constitution deals with the administration of the tribal areas in the four northeastern states of **Assam, Meghalaya, Tripura and Mizoram** as per **Article 244.**

- The Governor is empowered to increase or decrease the areas or change the names of the autonomous districts. While executive powers of the Union extend in Scheduled areas with respect to their administration in **Vth schedule,** the **VIth schedule** areas remain within **executive authority** of the state.

The Prohibition of E-Cigarettes Ordinance, 2019

- The **Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Ordinance, 2019** was promulgated.
- The Ordinance prohibits the **production, trade, storage, transport, and advertisement** of electronic cigarettes.
- **Electronic cigarettes:** The Ordinance defines electronic cigarettes (e-cigarettes) as electronic devices that heat a substance (natural or artificial) to create vapour for inhalation.
    These e-cigarettes **may contain nicotine and flavours,** and include all forms of **electronic nicotine delivery systems,** heat-not-burn products, e-hookahs, and other similar devices.
- **Banning e-cigarettes:** It prohibits the production, manufacture, import, export, transport, sale, distribution and advertisement of e-cigarettes in India.
    - Any person who contravenes these provisions 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 imprisonment of up to three years, and a fine of up to five lakh rupees.
- **Storage of e-cigarettes:** No person is allowed to use any place for the storage of e-cigarettes.
    If any person stores any stock of e-cigarettes, he will be punishable with imprisonment of up to six months, or a fine of up to Rs 50,000, or both.

Draft Bill to Prohibit Violence against Healthcare Professionals

The **Ministry of Health and Family Welfare** recently released a draft Bill to address incidences of violence against healthcare professionals and damage to the property of clinical establishments.

Key Features

- **Prohibition of violence:** The draft Bill prohibits any acts of **violence committed against healthcare service personnel** including doctors, nurses, para medical workers, and ambulance drivers, among others. It also prohibits any damage caused to hospitals, clinics, and ambulances.

- **Penalties:** Any person who commits violence, or abets such violence may be punished with imprisonment between six months to five years, along with a fine of up to five lakh rupees.
    - If any person causes grievous hurt to a healthcare service professional, he will be **imprisoned for a period between three years to ten years,** along with a fine between two lakh rupees and Rs 10 lakh.
    - In addition to the punishment for offences committed under the draft Bill, the convicted person will also be liable to pay compensation to the affected parties.
        This includes: (i) payment of twice the amount of the market value of the damaged property, (ii) one lakh rupees for causing hurt to healthcare service personnel, and (iii) five lakh rupees for causing grievous hurt to healthcare service personnel.
- **Cognizance of offences:** All offences under the draft Bill will be **cognizable** (i.e., a police officer can arrest without a warrant) and **non-bailable.**
    An aggrieved healthcare service professional can write to the person-in-charge of the clinical establishment to inform the police of an offence committed under the draft bill.
- Further, any case registered under this draft Bill will be investigated by a police officer **not below the rank of Deputy Superintendent of Police.**

Committee to Study Regulation of Non-personal Data

- The **Ministry of Electronics and Information Technology** has constituted a Committee of Experts **(Chair: Mr. Kris Gopalakrishnan, co-founder of Infosys)** to deliberate on a data governance framework for non-personal data.
    The **Srikrishna Committee on data protection** distinguished between **personal data** (which can be attributed to an individual) and **community data** (aggregated from multiple persons without specific individual attribution).
        Community data may include **e-commerce data, AI training data** and **derived data.**
- The Committee will deliberate on a framework for such non-personal data.
- The terms of reference of the Committee include: (i) studying issues relating to non-personal data, and (ii) making specific recommendations on regulation of non-personal data.

Economy

The Taxation Laws (Amendment) Ordinance, 2019

The **Taxation Laws (Amendment) Ordinance, 2019** was promulgated. It amends the **Income Tax Act, 1961, and the Finance (No. 2) Act, 2019.**

Key Features

- **Income tax rate for domestic companies:** Currently, domestic companies with an 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 Ordinance provides domestic companies with an option to pay income tax at **the rate of 22%,** provided they do not claim certain deductions under the Income Tax Act.
        - These include deductions provided for: (i) newly established Special Economic Zone units, (ii) expenditure on skill development, agriculture extension, and scientific research projects, (iii) investment in new plant or machinery in notified backward areas, (iv) depreciation of new plant or machinery (in certain cases), and (v) various provisions in the Income Tax Act (under Chapter VI-A, except the deductions provided for employment of new employees).
- **Tax rate for new domestic manufacturing companies:** The Ordinance provides new domestic manufacturing companies with an option to pay income tax at the rate of 15%, provided they do not claim certain deductions under the Act (as specified above).
    - New manufacturing companies include companies which will be set up and registered after September 30, 2019, and will 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 a plant or machinery previously used in India (except under certain conditions).
- **Applicability of new tax rates:** Companies can choose to opt for the new tax rate (15% or 22%, whichever is applicable) starting the financial year 2019-20 (i.e. assessment year 2020-21). Once a company has exercised this option, the chosen provision will apply for all subsequent years.
- **Surcharge on tax payable at new rates:** Currently, domestic companies with income between one crore rupees and Rs 10 crore are required to pay a 7% surcharge on tax.
    - Those with an income of more than Rs 10 crore are required to pay a 12% surcharge on tax.
        - The Ordinance provides that companies opting for the new tax rates (15% or 22%) are required to pay surcharge at the rate of 10% on the tax payable by them.

Steering Committee on Financial Technology

- The Steering Committee on financial technology related issues Chaired by **Mr. Subhash Chandra Garg** submitted its report to the Finance Minister.

- The Committee was constituted with the objective of making financial technology related regulations more flexible and enhance entrepreneurship.
    Financial technology refers to technology based businesses that compete against, enable and collaborate with financial institutions.

Key Observations and Recommendations

- **Expansion of financial technology services:** The Committee took note of the emerging technologies which act as enablers for financial technology.
    These include: (i) data-focused technologies such as artificial intelligence, machine learning, and biometrics; (ii) operational excellence aimed technologies such as distributed ledger technology and chatbots; (iii) infrastructural enablers such as open application program interfaces; and (iv) front-end interfaces such as gamification, or augmented and virtual reality.
- **Recommendations to expand the scope of financial technology:**
    - Removing discriminatory barriers for digital payments infrastructure.
    - Use of financial technology to bolster cybersecurity, fraud control and money laundering.
    - Examining the suitability of allowing virtual banking in India.
    - Dematerialising of financial instruments (converting physical certificates into electronic form).
- **Policy actions for the promotion of financial technology:** The department of financial services and public sector banks should explore the use of artificial intelligence for automating back-end processes.
    - Further, the Ministry of MSME should collaborate with the Department and RBI to implement blockchain solutions in trade finance for MSMEs.
    - Government should take up modernisation and standardisation of land records in the country, with a timeline to complete it in three years.
- **Administrative measures:** Since financial technology is an evolving area, the government should collaborate with other countries for a shared understanding of risks and benefits.
- An **advisory council on financial technology** should be setup by every financial sector regulator to bring together industry experts.
    Further, an **inter-ministerial group on financial technology technologies** should be setup for exploring potential applications of technologies that enable financial technology services.
- The Committee observed that the emergence of the financial technology industry brings additional privacy and data security challenges.
    - Further, the proposed **draft Data Protection Bill, 2018** may have far-reaching implications for the growth of the financial technology sector.
    - In this regard, it recommended **setting up a taskforce** in the Ministry of Finance on data protection in the financial sector.

External Benchmarking

- The **Reserve Bank of India (RBI)** has made it mandatory for banks to link all new (a) floating rate personal or retail loans (including housing and auto loans), and (b) floating rate loans to MSMEs, to an **external benchmark** from October 1, 2019.

  Floating rate loans are loans with variable interest rates. Currently, the banks' lending rates are based on either the base rate or the marginal cost of funds based lending rate.
- The banks can choose from the following external benchmarks:
  - **RBI repo rate (the rate at which RBI lends to commercial banks),**
  - **3-month or 6-month treasury bill yield,** or
  - **Any other benchmark market interest rate published by the Financial Benchmarks India Private Limited.**
  - Banks are not allowed to lend below the benchmark rate.
- Banks are required to adopt a **uniform external benchmark within a loan category.** However, they are free to decide the **spread over the external benchmark.**

  The **spread** is a range of interest rate above the benchmark rate, as per the risk premium.
- Further, banks are free to offer such external benchmark linked loans to other types of borrowers as well. The banks have to reset the interest rate under the external benchmark at least once every three months.
- Borrowers with existing floating rate loans, who are eligible to prepay without prepayment charges, will be eligible to switch to external benchmark without any charge or fees (except reasonable administrative/legal costs).

  The rate charged to these borrowers after switching will be the same as the rate charged for a new loan with the same specifics (category, tenor, amount) at the time of origination of the loan.

Note: The RBI had constituted an **Internal Study Group** to review the working of **marginal cost of funds** based lending rate in 2017. In its report, the Group had observed that internal benchmarks such as the base rate and marginal cost of funds-based lending rate have not delivered effective transmission of monetary policy. The Group recommended switching to an external benchmark in a time-bound manner.

Development of Secondary Market for Corporate Loans

- The Task Force on the **Development of Secondary Market for Corporate loans** Chaired by **Mr. T N Manoharan** submitted its report.

  Secondary market for corporate loans refers to the marketplace where these loans can be traded.

- The Task Force noted that an active secondary market will deliver significant benefits to both banks and borrowers, and lead to additional credit creation in the economy.
    - It would help banks in capital optimisation, liquidity and risk management.
    - It would benefit borrowers by providing them with lower cost of capital and greater credit availability.
- The Task Force observed that the **securitisation market** (which involves pooling securities and trading them in secondary markets) is limited primarily to retail segment with no major development in the corporate loan market.
    It also identified several factors which impede the growth of secondary markets, such as **lack of standardisation, insufficient active participants** and **regulatory restrictions.**

Secondary Market

It is a marketplace where already issued securities – both shares and debt – can be bought and sold by the investors. So, it is a market where investors buy securities from other investors, and not from the issuing company.

Key Recommendations

- It noted that **self-regulatory organisations** in different parts of the world have aided in the development of secondary markets.
    These include the **Loan Syndications and Trading Association in the US, Loan Market Association in Europe,** and the **Asia Pacific Loan Market Association** in the Asia Pacific region.
        - These have been helpful in standardisation of loan documentation and practices.
        - It recommended setting up a similar self-regulatory body in India.
        - It noted that currently there is no public credit registry in this regard. It recommended setting up a central loan contract registry and an online loan sales platform for secondary loan markets.
- Non-banking entities such as registered mutual funds, insurance companies and pension funds should also be permitted to participate in the secondary market to provide liquidity.
    This can be done by bringing **suitable amendments** to the regulations issued by sector regulators, including **SEBI** and the **Insurance and Regulatory Development Authority of India.**

Export Credit under Priority Sector Lending

The Reserve Bank of India has **increased the limit for classification** of export credit under priority sector lending from Rs 25 crore per borrower to Rs 40 crore per borrower.

  - Further, the existing criteria of units having turnover of up to Rs 100 crore is removed.
  - As per the current norms, export credit by domestic banks can be classified as priority sector only for units with turnover of up to Rs 100 crore.

Note: Under **priority sector lending**, banks (domestic banks and foreign banks with 20 branches and above) are required to devote 40% of net bank credit for certain priority sector areas. These include agriculture, MSMEs, export credit, education, housing, social infrastructure and renewable energy.

Amendments to FCRA Rules

The **Ministry of Home Affairs** notified amendments to the Rules under the **Foreign Contribution (Regulation) Act, 2017.** The Act regulates the acceptance of foreign contribution or foreign hospitality by certain individuals and organisations.

Key Amendments to the Rules

- Under the Act, eligible entities (i.e. with a definite cultural, economic, educational, religious or social programme) seeking foreign contribution are required to apply for a **Certificate of Registration.**

  If such a Certificate is not obtained, eligible entities may apply for prior permission from the central government for receiving foreign contribution from a specific source and for a specific purpose.
- The Rules specify the forms to apply for a **certificate of registration** or to apply for prior permission.
- It additionally requires every office bearer and key functionary of such an entity to submit an affidavit confirming that they have fulfilled all the conditions for grant of Certificate under the act.
- These conditions include that they have not been prosecuted or convicted for religious conversion, or for creating communal tension and disharmony.

- Under the Rules, personal gifts of a market value of up to Rs 25,000, are not considered as **“foreign contribution”** under the act. The Amendments increase the threshold from Rs 25,000 to one lakh rupees.
  - The Act prohibits acceptance of hospitality from a foreign source (e.g. foreign governments or corporations) for certain categories of persons (including legislators, judges, and government and PSU employees), unless the person obtains prior permission from the central government.
    - However, prior permission for receiving foreign hospitality is not required if an individual contracts a sudden illness abroad.
    - In such a case, the rules require the individual to notify the government within 60 days of receiving the hospitality.
    - The amendments reduce the reporting time from 60 days to one month. Note that the Act contained a reporting timeline of 30 days from receiving the hospitality.

RBI Working Group to Review Agricultural Credit

A Working Group constituted by the RBI to review agricultural credit released its report.

Key Observations and Recommendations

- **Increase in the share of short-term crop loans:** The Working Group observed that the **interest subvention scheme** for short-term crop loans has increased the share of such loans in agricultural credit from 51% in 2000 to 75% in 2018.
  - The scheme has **incentivised short-term production** credit over long-term investment credit which is important for long-term sustainability of the sector.
  - The Working Group noted that the central and state governments **need to increase their capital expenditure** which will stimulate the demand for investment credit in agriculture.
  - It also recommended that banks should provide crop loans under the scheme only through Kisan Credit Cards in order to curb the misuse of interest subsidy.

- **Loan waivers:** The Working Group observed that since 2014-15, 10 states have announced loan waivers worth Rs 2.4 lakh crore (1.4% of the 2016-17 GDP), mostly near elections.
    - It noted that loan waivers **do not address the underlying causes of farm distress** and **destroy credit culture,** potentially harming farmers' interest in the medium to long term.
    - It also noted that loan waivers squeeze the fiscal space available for productive investment in agriculture.
    - **The Working Group recommended that:**
        - Loan waivers should be avoided, and
        - The central and state governments should undertake a holistic review of agricultural policies and input subsidies in order to improve the overall viability and sustainability of agriculture.
- **Credit for allied activities:** The Working Group observed that allied activities (livestock, forestry, and fisheries) receive only 10% of the total agricultural credit while they contribute 40% of the agricultural output.
    - It noted that this could be due to the lack of a proper definition for farmers doing such activities, as the Census defines a farmer based on his landholding.
    - As a result, banks insist on land records for providing credit to such farmers. Also, banks do not have any specific mandate such as priority sector lending to lend towards allied activities.

        The Working Group recommended that **separate lending targets should be set for allied activities** and banks should not insist on land records for up to two lakh rupees of such credit.

Exemption for APMC Traders

- The Ministry of Finance has **exempted** traders and commission agents operating under **Agriculture Produce Market Committees (APMCs)** from levy of 2% tax on cash withdrawals exceeding one crore rupees.
- The **Income Tax Act** requires banks and post offices to deduct this tax from cash withdrawals in excess of one crore rupees in a financial year.
- The Act allows the central government to exempt certain persons or class of persons from levy of this tax after consultation with the RBI.
- Traders and commission agents who are registered under any law relating to APMC in their respective state are eligible for exemption.

    Further, the trader or commission agent availing this exemption is required to certify to the bank or post office that the excess cash withdrawals are for the purpose of making payments to farmers for purchase of agriculture produce.

Social Justice

Accessibility Standards for Television Programmes

The **Ministry of Information and Broadcasting** has issued **Accessibility Standards for television programmes for persons with hearing impairment** (whether broadcast through traditional hardware or through Internet platforms).

This is in accordance with the **Rights of Persons with Disabilities Act, 2016.**

Key Features

- **Modes for access:** Service providers are required to provide any one or more of the following options to access specified television programmes: (i) **sub-titles,** (ii) **open or closed captioning,** or (iii) **sign language.**
    - **Sub-titles** are usually created as translations for people who do not speak the language of the medium.
    - **Captions** are text versions of the spoken language of the medium. Open captions are part of the video itself and cannot be turned off whereas closed captions can be turned on or off by a viewer.

        The sub-titles or open captioning or closed captioning is to be provided in the language of the channel or any other suitable language based on various factors including target audience and target region.
    - If **sign language interpretation** is provided, service providers should ensure that the hands as well as facial expressions of the signer are visible.

        The image of the signer should generally appear on the right side of the screen and occupy a space no smaller than one-sixth of the picture.
- **Foreign language television programmes** should have closed captions in English or any other Indian language.
- The service providers will have to ensure the **availability of customer service for persons with hearing impairment.** Further, the government as well as service providers will be required to take steps to raise awareness about the accessibility of television programmes.

Exemptions

- TV channels, whose audience share across all households is less than 1% in a year, are exempted from these requirements.
- The standards exempt certain formats of content from the accessibility requirements, these include:
    - **Live and deferred live content** or events including sports broadcast.
    - Live news, or events including award shows and live reality shows.
    - Advertisements or teleshopping content.

- The standards will be implemented in a phased manner.
    - By 2025, the standards aim to ensure that at least 50% of the content from general entertainment channel, movie-based channel and news channels will provide access service.
    - The standards will be reviewed every two years.