

Legislation in Parliament

Monsoon Session, 2010

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The Confederation of Indian Industry
The Mantosh Sondhi Centre
23, Institutional Area, Lodi Road
New Delhi 110003

www.cii.in

Prepared by:



PRS Legislative Research
Centre for Policy Research
Dharma Marg, Chanakyapuri
New Delhi 110 021

www.prsindia.org

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Introduction

The Monsoon session of Parliament was held between July 26 and August 31, 2010. During this session, 26 Bills were introduced, 24 were passed (including three Appropriation Bills) and 1 Bill was withdrawn. At the end of the session, there were 71 Bills pending in Parliament. Some important Bills passed by Parliament include the Civil Liability for Nuclear Damage Bill, 2010; the Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 2010 and the Foreign Contribution (Regulation) Bill, 2006.

In this note, we classify all legislative activity into six broad sectors. For each sector, we give a brief summary of all Bills introduced or passed during the Monsoon session 2010 (excluding the Appropriation Bills). We also give a summary of all reports on Bills submitted by Standing Committees during this period. Finally, we give links to major news articles related to legislation, with a brief outline of the article. Please refer to earlier editions of this note for similar summaries of earlier sessions.

Sector 1: Industry, Commerce and Finance

	Chairperson	Contact Information
Committee on Industry	Dr Akhilesh Das Gupta	11, Lodhi Estate, New Delhi 110003 Tel.: 24645049; 24646488, 24656466, 9868181488
Committee on Finance	Dr Murli Manohar Joshi	6, Raisina Road, New Delhi 110001 Tel.: 23718444, 23711144 Fax: 23711772
Committee on Commerce	Shri Shanta Kumar	23, Ashoka Road, New Delhi 110001 Tel.: 9418030630

Summary of Key Bills

Bills Introduced

The government introduced one Bill related to this sector in the Monsoon session of Parliament.

The Direct Tax Code Bill, 2010

The Direct Tax Code Bill, 2010 was introduced in the Lok Sabha on August 30, 2010. The Bill was introduced by the Minister of Corporate Affairs, Shri Salman Kurshid. The Bill was referred to the Standing Committee on Finance, which is scheduled to present its report within two months.

- The Code seeks to consolidate and amend the law relating to all direct taxes. The Code was referred to the Standing Committee on Finance September 10, 2010. The Committee has to submit its report within three months.
- The Code changes the existing rates of income-tax. The table below shows the changes proposed in the Code to the existing income-tax rates:

Proposed changes to existing tax-rates for individuals

Existing tax-rates		Direct Tax Code	
Income (Rs.)	Tax rate	Income (Rs.)	Tax rate
Less than 1.6 lakh	Nil	Less than 2 lakh	Nil
1.6– 3 lakh	10%	2 – 5 lakh	10%
3 – 5 lakh	20%	5 – 10 lakh	20%
More than 5 lakh	30%	More than 10 lakh	30%

Sources: Direct Tax Code, 2010; Finance Act, 2010; PRS.

- Companies and unincorporated bodies will be taxed at 30 percent of their total income. Non-profits will not have to pay tax for income below Rs. 1 lakh. For income above Rs. 1 lakh, they will be charged at the rate of 15 percent of their total income.
- The Code proposes a minimum alternate tax on companies. The tax will have to be paid in case the normal income tax of a company is less than the tax on the book profit of a company. The tax will be applicable at 20 percent of the book profits of the company. The Draft Direct Tax Code had proposed a marginal tax on certain investments (such as provident funds and pension schemes) at the time of redemption. In the Code introduced in the Lok Sabha investments such as government Provident Fund, approved

provident fund schemes and life insurance schemes will be exempt from tax at the time of redemption.

- Persons other than non-profit organizations will have to pay wealth tax. Wealth up to Rs 1 crore is exempt. Wealth above Rs 1 crore will be taxed at 1 percent.
- The Code allows deductions for savings up to an amount of Rs. 1 lakh as contributions to approved funds. Deductions up to five percent on existing life insurance policies shall be allowed. A total deduction of up to Rs 50,000 will also be allowed on sums paid for health insurance, and for the education of children.
- Deductions shall also be allowed on the interest paid on loans taken for house property and higher education. Deductions on housing loans shall be allowed up to a limit of Rs 1,50,000. There is no limit on the deduction available for higher education.
- A person not receiving house rent allowance will be allowed a deduction on the rent paid towards his own residence. The deduction shall only be available if the rent paid exceeds ten percent of an individual's total income.
- Capital gains are computed in the following manner. For assets on which securities transaction tax is payable, the long term capital gains (if held for more than one year) will be nil. Short term capital gains will be computed as half of the actual gains. For other investment assets, long term capital gains will be given indexation benefits.
- The Code repeals the Income Tax Act, 1961 and the Wealth Tax Act, 1957.

Bills Passed

Four Bills related to this sector were passed in the Monsoon session of Parliament.

The Trade Marks (Amendment) Bill, 2010

The Trade Marks (Amendment) Bill, 2009 was introduced in the Lok Sabha on December 4, 2009 by the Minister of Commerce and Industry, Shri Anand Sharma. The Bill was passed by the Lok Sabha on December 18, 2009 and the Rajya Sabha on August 10, 2010.

- The Bill amends the Trade Marks Act, 1999 (Principal Act) to provide for protection of Indian trade marks in other countries, in line with the Madrid Protocol. The Principal Act does not allow Indian and foreign

nationals to register trade marks simultaneously in other countries. Thus, if a person wants to register his trade mark in other countries he has to make a separate application and pay fees in the respective country.

- The Madrid Protocol, adopted in 1989 and administered by the International Bureau of the World Intellectual Property Organisation, provides for a system for international registration of trade marks. In order to accede to the Protocol, India needs to amend the Principal Act.
- The Bill prescribes a period of 18 months within which a trade mark has to be registered.
- The Controller-General of Patents, Designs and Trade Marks is the Registrar of Trade Marks, appointed with any other officers deemed fit, by the central government. The Bill empowers the Registrar of Trade Marks to deal with international applications originating from India as well as those received from the International Bureau and maintain record of international registrations.
- In case of international registrations originating from India, the applicant or registered proprietor may make an international application on a prescribed form. If a person holds an international registration, he may make an international application on the prescribed form for such registration to any other Contracting Party (any country or inter-governmental organisation which is part of the Madrid Protocol).
- The Bill increases the time period of filing a notice of opposition of published applications, from three months to four months.
- The Bill simplifies the provisions related to transfer of ownership of trade marks by assignment or transmission. If a person becomes entitled to a registered trade mark by assignment or transmission, he shall apply in the prescribed manner to the Registrar to register his title. The Registrar may ask the applicant to furnish further evidence only where there is a reasonable doubt about the veracity of any statement or document.

The Foreign Trade (Development and Regulation) Amendment Bill, 2009

The Foreign Trade (Development and Regulation) Amendment Bill, 2009 was introduced in the Rajya Sabha on November 25, 2009 by the Minister of Commerce and Industry, Shri Anand Sharma. The Bill was passed by the Lok Sabha on August 12, 2010 and the Rajya Sabha on August 9, 2010.

- The Foreign Trade (Development and Regulation) Act, 1992 (Principal Act) seeks to develop and regulate

foreign trade by facilitating imports and exports from India. The Bill seeks to amend the Principal Act to incorporate safeguard measures by imposing quantitative restrictions; to tighten export or trade control in case of dual-use goods and related technologies and to provide for establishing controls similar to the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.

- The definition of “import” and “export” has been expanded to include “technology” and “services” (including financial services) so that incentive schemes and other provisions of the Foreign Trade policy can be administered.
- The Bill enables the central government to impose restrictions on increased import of any article if it causes or threatens to cause serious injury or overall impairment to the position of the domestic industry.
- No quantitative restriction shall be imposed on goods originating from a developing country (notified by the central government) as long as the share of import of that good is up to three per cent. In case of more than one developing country, the total imports should not exceed nine per cent. The quantitative restriction shall become invalid after four years unless the central government feels it is necessary to continue with restrictions. However, no quantitative restriction shall remain valid beyond 10 years from the date on which the restriction was imposed.
- The Bill enhances penalty for contravening the provisions regarding import and export. It also prescribes penalty for signing any declarations knowing that it is false. If the penalty imposed by the Act is not paid by any person, it may be recovered in the prescribed manner.
- The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 shall apply to export of specified goods, services or technology (any goods or services or technology whose import or export or transfer is restricted or conditions have been imposed on grounds of their being relevant to India as a nuclear weapon state or to the national security of India or any international treaty to which India is a party).
- A person cannot export any material, equipment and technology knowing that such material is intended to be used to manufacture biological, chemical or nuclear weapons or other nuclear explosive device.
- If any person contravenes provisions related to specified goods, the penalties under the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 shall be applicable.

- The central government has the power to examine the decisions of the Director General of Foreign Trade. The Director General has similar powers with regard to any subordinate officer. However, a decision cannot be changed unless certain specified conditions are met.

The State Bank of India (Amendment) Bill, 2010

The State Bank of India (Amendment) Bill, 2010 was introduced on March 8, 2010 in the Lok Sabha by the Minister of Finance, Shri Pranab Mukherjee. The Bill was passed by the Lok Sabha on August 2, 2010 and the Rajya Sabha on August 12, 2010.

- The Bill seeks to amend the State Bank of India (SBI) Act, 1955 (Principal Act). The principal act was last amended in 1993 to enable the SBI to access the capital market. While the SBI can issue equity shares or bonds, there is no express provision in the principal act which allows the SBI to issue preference shares and also bonus shares.
- The Bill seeks to provide for enhancement of the capital of the SBI by issue of preference shares to enable it to raise resources from the market by public issue, preferential allotment or private placement. [The new capital adequacy norms (Basel II) and the growth of SBI's overall business could require an increase in capital base.]
- The Bill proposes to reduce the RBI shareholding from 55 per cent to 51 per cent consisting of the equity shares of the issued capital. [The entire shareholding of RBI has been transferred to the Government of India by an Ordinance in June 2007, and an Act passed in August 2007. Consequently, this provision needs to be amended to reflect this change in shareholding.]
- The Bill proposes to amend the principal act to increase the authorised capital of SBI to Rs 5000 crores divided into shares of Rs 10 each.
- SBI is allowed to issue bonus shares to the existing equity shareholders as per the direction of the RBI and the approval of the Central Government. It also provides for a nomination facility in respect of shares held by individual or joint shareholders.
- The Bill proposes to restrict the voting rights of preference shareholders of the SBI and allows the Central Government to appoint up to four Managing Directors in consultation with RBI. It specifies the qualification for election of directors of SBI. It also abolishes the post of Vice-chairman.
- The Bill also changes some of the procedures for the election of a director.

- The central government is given the power to supersede the central board in certain cases on the recommendations of RBI, and to appoint an interim administrator.
- The Bill allows the transfer of unpaid or unclaimed dividend of the SBI up to 30 days to 'unpaid dividend account' and after seven years to the 'Investor Education and Protection Fund' established under the Companies Act, 1956.
- The Bill restricts the tenure of Workmen Employee Director/Officer Employee Director to three years.

The Securities and Insurance Laws (Amendment and Validation) Bill, 2010

The Securities and Insurance Laws (Amendment and Validation) Bill, 2010 was introduced on July 27, 2010 in the Lok Sabha by the Minister of Finance, Shri Pranab Mukherjee. The Bill replaces an Ordinance promulgated on June 18, 2010. It was passed by the Lok Sabha on August 2, 2010 and the Rajya Sabha on August 12, 2010.

- The Ordinance specifies that unit linked insurance policies will be covered by provisions of the Insurance Act, 1938. Such policies are no longer 'securities' or 'collective investment schemes', as defined under the the Securities Contracts (Regulation) Act, 1956 or the SEBI Act, 1992.
- The Bill provides for a joint committee, chaired by the Finance Minister, to resolve disputes between regulators over 'hybrid' or composite instruments. Such instruments are those which involve investments in the money market or the securities market, or have a component of insurance and which fall within the ambit of (a) Reserve Bank of India (b) SEBI (c) IRDA or (d) Pension Fund Regulatory and Development Authority.
- In addition to the Finance Minister, the committee shall consist of the heads of each the regulators specified above, as well as the Secretary (Department of Economic Affairs), and the Secretary (Financial Services) of the government.
- Differences of opinion over hybrid instruments can be referred to the committee by any of the regulators on it. The committee must reach a decision in three months and is binding on all the regulators.

Summary of Standing Committee Reports

The Coinage Bill, 2009

- The Standing Committee on Finance (Chairperson: Shri Yashwant Sinha) tabled its 22nd Report on 'The Coinage Bill, 2009' on August 31, 2010. The Bill was introduced in the Lok Sabha on December 17, 2009.
- The Bill seeks to consolidate four Acts namely the Metal Tokens Act, 1889; the Coinage Act, 1906; the Bronze Coin (Legal Tender) Act, 1918 and the Small Coins (Offences) Act, 1971. The Committee recommended that the Bill be passed after incorporating the suggestions.
- The Committee suggested that the intrinsic value of the metal be comparatively lower than the face value of the coin in order to curb unauthorized melting of coins. It also emphasized on the strict enforcement of the penal provisions.
- In order to curb counterfeiting of coins, the Committee recommended that a proper mechanism should be put in place to identify coins and verify its genuineness.
- The Committee stated that the penalty for melting or making coins should be increased to a maximum of 10 years' imprisonment from seven years as mentioned in the Bill. The Indian Penal Code penalizes counterfeiting currency notes by a maximum of 10 years' imprisonment.
- The Committee noted that the definition of a "coin" needed to be modified to include one rupee currency note and add that credit cards, postal orders etc are outside the Act's purview.
- In view of scarcity of metals, the Committee recommended that the Bill should mention that a coin may be made of any other material as the government determines in public interest.
- In view of the fact that the Bill allows minting of coins upto the value of Rs 1,000, the Committee proposed that the specific sums upto which coins can be used as legal tender be reviewed.
- The Bill states that if a coin has been defaced due to sweating it shall be deemed to be fraudulently defaced. However, since India is a tropical country, the Committee recommended that this provision should be deleted.
- The Committee proposed that the Security Printing and Minting Corporation of India Limited should be able to authorize any organization of the government to melt withdrawn coins.

- The Committee emphasized the need to make the currency visually impaired friendly. In view of increase in prices of materials used to make coins, the sizes should be modified. Also, the government may consider formally recalling 25 paisa coins.

The Companies Bill, 2009

- The Standing Committee on Finance submitted its 21st Report on 'The Companies Bill, 2009' on August 31, 2010. The Chairperson was Shri Yashwant Sinha.
- The Bill seeks to replace the Companies Act, 1956. According to the Report, the Bill proposes to change the existing legal regime in a number of ways. Some of the main changes are: (a) changing the basic principles for all aspects of corporate governance of corporate entities; (b) creating a speedy incorporation process, with detailed disclosures at the time of incorporation; (c) statutory recognition of audit committees and other bodies within corporations; (d) restriction on the ability of companies to raise deposits from the public except if permitted under special laws; (e) legal recognition of accounting and auditing standards; (f) revised framework for regulation of insolvency, liquidation and winding up.
- The Committee gave detailed clause-by-clause recommendations and also gave recommendations in a thematic manner on the broader issues covered by the Bill. The Committee's recommendations on the broader issues are summarised below.

Corporate Governance

- The Committee had suggested that substantive matters covered in various corporate governance guidelines should be contained in the Bill. These include: (a) separation of offices of Chairman and Chief Executive Officer, (b) limiting the number of companies in which an individual may become director, (c) attributes for independent directors, (d) appointment of auditors.
- The Ministry agreed to include these guidelines appropriately in the Bill. The Committee recommended that other substantive matters in the guidelines and the Listing Agreement prescribed by SEBI for listed companies should be included in the Bill. The guidelines should remain voluntary for unlisted companies.

Delegated Legislation

- The Committee noted that the Bill provided excessive scope for delegated legislation. Several substantive provisions were left for rule-making, the Ministry was asked to reconsider provisions made for excessive delegated legislation.
- The Ministry changed some of the provisions to include the substantive provisions in the Bill itself. These include: (a) the definition of small companies, (b) manner of subscribing names to the Memorandum of Association, (c) format of Memorandum of Association to be prescribed in the Schedule, (d) manner of conducting Extraordinary General Meetings, (e) documents to be filed with the Registrar of Companies.
- The Committee however stated that simple procedural aspects requiring flexibility should continue to remain in the domain of delegated legislation.

Independent Directors

- The Committee recommended that provisions relating to independent Directors in the Bill should be distinguished from other directors. There should be a clear expression of their (a) mode of appointment, (b) qualifications, (c) extent of independence from management, (d) roles, responsibilities, and liabilities.
- The liabilities of independent Directors should also be limited to enable them to act freely and objectively.
- The Committee also recommended that the appointment process of independent Directors should be made independent of the company's management. This should be done by constituting a panel to be maintained by the Ministry of Corporate Affairs, out of which companies can choose their requirement of independent directors.

Regulatory Overlaps

- The RBI and SEBI suggested that certain provisions in the Companies Act, 1956 which prevented regulatory overlaps were not present in the Bill. The Committee stated that the while minimum benchmarks need to be provided in the Bill, sectoral regulators like SEBI should be allowed to exercise their designated jurisdiction.
- The Bill should clearly state that the Companies Bill will prevail only if the special law is silent.

Auditors

- The Bill sought to enhance the role of the existing National Advisory Committee on Accounting Standards (NACAS). The Ministry accepted the Committee's suggestions and suggested that additional regulatory powers should be given to the body to enforce compliance with standards and for monitoring bodies involved in setting standards.
- The Committee acknowledged the Ministry's acceptance of its suggestions and also recommended

that the NACAS should be given the mandate of both (a) overseeing auditing and accounting standards, and (b) monitoring the quality of audit undertaken across the corporate sector.

Investor Protection

In response to the Committee's concerns for ensuring protection of investors and minority shareholders, the Ministry stated that it had introduced certain provisions in the Bill. It also made certain suggestions to the Committee for protection of minority shareholders and small investors. The Committee accepted the proposals. The main provisions and suggestions are given below:

New provisions:

- Enhanced disclosure requirements at the time of incorporation.
- Shareholder's associations/ groups enabled to take legal action in case of any fraudulent action by the company.
- Directors of a company which has defaulted in payment of interest to depositors to be disqualified for future appointment as directors.

Suggestions on protection of minority shareholders/small investors:

- Source of promoter's contribution to be disclosed in the Prospectus.
- Stricter rules for bigger and solvent companies on acceptance of deposits from the public.
- Return to be filed with Registrar in case of promoters/ top ten shareholders stake changing beyond a limit.

Corporate Social responsibility

The Committee agreed to the Ministry's proposal to bring Corporate Social Responsibility in the Bill itself. The Committee also recommended that there should be separate disclosures required to be made by Companies in their Annual Report indicating company policy as well as specific steps taken.

One Person Companies, Private Companies, Limited Liability Partnerships

- The Committee observed that the Bill contains a number of references to different forms of companies, but the exemption regime applicable to them is not precise or explicit.
- The Committee asked the Ministry to clearly mention the exemption regime applicable to each of the different forms of companies in the Bill. This would also help to distinguish these forms of companies from each other.
- The Limited Liability Partnership Act and the Bill should also be synchronised.

Corporate Delinquency

- The Committee recommended that the government include the suggestions it made to the Committee on the issue. These included: (a) Subsidiary companies not to have further subsidiaries, (b) source of the promoter's contribution should be included in the prospectus, (c) Main objects for raising public offer should be mentioned on the first page of the prospectus, (d) tenure of independent director should be provided in law, (e) the office of the Chairman and the Managing Director/ CEO should be separated.
- The Committee emphasised that the procedural defaults should be viewed in a different perspective from fraudulent practices.

Shareholder democracy

- The Committee recommended that the system of proxy voting should be discontinued.
- It also stated that the quorum for company meetings should be higher than the proposed five members, and should be increased to a reasonable percentage.

Foreign companies

- The Bill requires foreign companies having a place of business in India and with Indian shareholding to comply with certain provisions in the proposed Bill. The Committee observed that the Bill does not clearly explain the applicability of the Bill to foreign companies incorporated outside India with a place of business in India.
- The Committee recommended that all such foreign companies with or without any shareholding in India should be brought within the ambit of the chapter dealing with foreign companies.

The Chartered Accountants (Amendment) Bill, 2010

- The Standing Committee on Finance (Chairperson: Shri Yashwant Sinha) tabled its 24th Report on 'The Chartered Accountants (Amendment) Bill, 2010' on August 31, 2010. The Bill was introduced in the Rajya Sabha on April 28, 2010.
- The Bill seeks to enable chartered accountant to take the benefit of the Limited Liability Act, 2008. It also allows members of the Institute of Chartered

Accountants to form partnerships with members of specified professions.

- The Committee recommended that this provision should be aligned with the existing provision of the Chartered Accountants Act.

The Company Secretaries (Amendment) Bill, 2010

- The Standing Committee on Finance (Chairperson: Shri Yashwant Sinha) tabled its 23rd Report on 'The Company Secretaries (Amendment) Bill, 2010' on August 31, 2010. The Bill was introduced in the Rajya Sabha on April 28, 2010.
- The Bill seeks to allow the members of the Institute of Company Secretaries of India to form limited liability partnerships as defined by the Limited Liability Partnership Act, 2008. The Council of the Institute manages affairs of the institute. The Committee recommended that the Secretary of the Council should be appointed from among the members of the Institute.

The Cost and Works Accountants (Amendment) Bill, 2010

- The Standing Committee on Finance (Chairperson: Shri Yashwant Sinha) tabled its 25th Report on 'The Cost and Works Accountants (Amendment) Bill, 2010' on August 31, 2010. The Bill was introduced in the Rajya Sabha on April 28, 2010.
- The Bill seeks to allow the members of the Institute of Cost and Management Accountants to form limited liability partnerships as defined by the Limited Liability Partnership Act, 2008.
- The Committee proposed that the designation attached to the profession should be changed to cost accountants and the institute be re-named as the Institute of Cost Accountants.

Summary of Key Legislative News (July 27-September 14)

Bill to replace Ulip ordinance tabled, Times of India, July 27

The UPA government introduced the Securities and Insurance Laws (Amendment and Validation) Bill 2010 that would replace the ordinance. The bill provides for a 'joint committee' to be headed by the finance minister and consisting of all regulators as members. It also clarifies that ULIPs will be regulated by IRDA.

Bill to reduce govt holding in SBI to 51% approved by LS, The Economic Times, August 2

The Lok Sabha passed the State Bank of India (Amendment) Bill reducing the government holding in SBI from 55% to 51%. The Bill also seeks to raise the authorised capital of the bank from Rs 1,000 crore to Rs 5,000 crore.

The Industrial Disputes (Amendment) Bill, 2010 passed by the Rajya Sabha, PIB, August 3

The Industrial Disputes (Amendment) Bill, 2010 passed by the Rajya Sabha provides for a framework for investigation and settlement of disputes. The Bill seeks to amplify the definition of 'appropriate government', enhance the wage ceiling prescribed for supervisors, provide direct access for workman to Labour courts or Tribunal in case of individual disputes.

States reject GST draft bill, unhappy with FM powers on state matters, The Indian Express, August 5

The states rejected the Centre's draft constitutional amendment bill proposed for GST in its present form on the ground that the Union finance minister would be vested with veto powers in state matters too. According to the finance ministry, if the amendments were not introduced in the monsoon session, there could be delay in the new indirect tax regime.

FMC, SEBI to remain separate entities, The Economic Times, August 8

The convergence debate involving the merger of Forward Markets Commission (FMC) with SEBI has been closed, with the government taking a decision that FMC will continue to regulate the commodity futures market and report to the consumer affairs ministry, which lays down policy for the market.

Centre may drop veto from GST Bill, Business Standard, August 11

The Centre may drop the contentious provision in the Bill on Goods and Services Tax (GST) that proposed to arm the Union finance minister with veto power. The Bill is being redrafted to say no proposal will be cleared by the GST council unless there is a consensus among all the 30 states and Union Territories, as well as the Centre.

Rajya Sabha passes Trade Marks (Amendment) Bill, The Hindu, August 11

Commerce and Industry Minister Anand Sharma said that the Trade Marks (Amendment) Bill aligns Indian trade mark with provisions of the Madrid Protocol. The Bill allows any person or an enterprise to seek registration or trade mark in any of the 84 member countries of the Madrid Protocol through a single application.

Rajya Sabha passes Bill for tighter control over sensitive technology exports, The Hindu, August 11

The Rajya Sabha approved amendments to the Foreign Trade (Development and Regulation) Act, 1992, to enable the government to impose quantitative restrictions in case of import surge in merchandise to protect the domestic industry. The Bill would also ensure conformity with the provisions of the law related to weapons of mass destruction and their delivery systems.

Parliament approves bill to lower govt stake in SBI, The Economic Times, August 12

The parliament approved a Bill enabling the government to reduce its holding in State Bank of India, the country's largest lender, to 51 per cent and help it raise capital. The Bill would enable the bank to raise funds through preference shares, rights issue, preferential allotment or private placement of shares.

House clears amendments to Foreign Trade Act, The Indian Express, August 13

The Lok Sabha agreed on amendments to the Foreign Trade (Development and Regulations) Act of 1992 providing government powers to impose “quantitative restrictions” on the import of goods as a safeguard measure against any surge in imports, cheaper imports, or any threat to the domestic industry.

FM to lose veto power in GST council, to retain chairmanship, The Economic Times, August 15

The revised draft of the Constitution Amendment Bill on GST will drop the contentious issue of giving veto powers to the Union Finance Minister in order to bring states on board. However, the Union Finance Minister will remain the chairman of the council, which will take decisions on the indirect tax system.

Some states seek more time to respond to tax bill, Deccan Herald, August 18

The Centre and states could not reach a consensus on the draft Constitution Amendment Bill for introducing Goods and Services Tax (GST) across the country and some states demanded more time to respond to the revised draft.

Turf War Put To Rest, OUTLOOK, August 25

The Lok Sabha passed the Securities and Exchange Board of India (Amendment) Bill, 2009, which effectively reduces the role of RBI as the coordination body of the four financial regulators. The Bill has put the turf war between the Securities Exchange Board of India and the Insurance Regulatory and Development Authority (IRDA) to rest.

Govt may table tax code bill in Monsoon Session, Times of India, August 25

The UPA government is keen to introduce the Direct Tax Code (DTC) Bill in Parliament in the monsoon session. DTC Bill is to replace the Income Tax Act by rationalising tax slabs for both corporates and individual I-T payers.

New law to regulate foreign contributions, Times of India, August 27

Foreign Contribution (Regulation) Bill, 2010 was passed in the Parliament. Keeping in mind national security and the changed internal security scenario, the legislation brings transparency in receiving foreign contributions.

Direct Taxes Code Bill: You'll save tax, but not much, Times of India, August 27

The cabinet approved the draft of the Direct Tax Code Bill. It exempts incomes up to Rs 2 lakh per annum (against the current Rs 1.6 lakh) from tax, proposes to tax incomes between Rs 2 lakh and Rs 5 lakh at 10%, between Rs 5 lakh and Rs 10 lakh at 20% and beyond Rs 10 lakh at 30%. For women and senior citizens, the exemption limit would be Rs 2.5 lakh per annum.

New tax code takes away sop from women, Times of India, August 31

The simplified Direct Taxes Code Bill was introduced in Parliament on August 30. The Bill, which will replace the Income Tax Act 1961, seeks an increase in exemption threshold of individuals from the current Rs. 1.6 Lakh to Rs. 2 Lakh and reduces corporate taxes to a flat 30%. The code becomes effective from April 1, 2012.

Goods, services tax roll-out may miss April 2011 target: Pranab, Business Line, September 3

The Finance Minister, Mr Pranab Mukherjee, conceded that it may not be possible to introduce GST from April 1 next year. The main bottleneck is the absence of consensus between the Centre and the States on the required Constitutional Amendment for introduction of GST.

Direct Tax Code a significant reform? Hindustan Times, September 4

There is not much of reform in the content of the DTC Bill. It carries forward the present tax structure with a few changes mostly in respect of personal taxation.

Direct Tax Code does not have much for common man, Economic Times, September 5

While a lot had been anticipated from the DTC in terms of widening of tax slabs and reduction in tax rates, the proposal in its current form does not have a great deal. Though the tax slabs for individual tax payers have been widened, the resultant savings in the hands of the individual tax payers is just a pittance.

New tax code pushes taxation of vencaps back to its old form, DNA, September 8

The DTC Bill does not change most of the provisions of the Income Tax Act, 1961 with regard to venture capital funds (VCFs). It proposes to restrict the tax exemption to investments of VCFs in nine specified sectors only, thereby retaining the existing tax regime applicable to VCFs under the Act.

Cash subsidy to replace area-based incentives in GST, Business Standard, September 11

The finance ministry stated that the excise duty exemptions given to industrial units will be converted into a subsidy scheme in the proposed Goods and Services Tax regime. All the industries that enjoy area-based exemptions will have to pay taxes in the new regime. They will, however, be entitled to receive cash refund from the government for the unexpired period of their tax holiday.

What is in GST for the consumer? Economic Times, September 14

The article discusses the major disadvantages of the proposition of taking a step toward GST. The problem of classification, valuation and inverted duty structure continues with multiple tax rates. The other more critical issue is its impact on prices i.e. whether the consumer is benefited in terms of lower prices for goods and services in the new GST dispensation.

Sector 2: Science, Energy and Mines

	Chairperson	Contact Information
Committee on Information Technology	Shri Rao Inderjit Singh	6, Lodhi Estate, New Delhi 110003 Tel. : 24643265, 23011887, 9013180525 Fax: 24643266
Committee on Science & Technology, Environment & Forests	Dr T. Subbarami Reddy	AB-2, Purana Quila Road, New Delhi 110001 Tel.: 23782075, 23782035, 23782323, 23782014, 200041717, 9868181079
Committee on Petroleum & Natural Gas	Shri Aruna Kumar Vundavalli	187, South Avenue, New Delhi 110011 Tel no.: 23795075, 9868180171 Fax: 23795075
Committee on Coal & Steel	Shri Kalyan Banerjee	184, North Avenue, New Delhi 110001 Tel.: 23092040, 9013180097 Fax: 23092041
Committee on Energy	Shri Mulayam Singh Yadav	130, Parliament House, New Delhi Tel. no.: 23014848, 9013180424

Summary of Bills

Bills Introduced

The government introduced two Bills related to this sector in the Monsoon session of Parliament.

The Prasar Bharati (Broadcasting Corporation of India) Amendment Bill, 2010

The Prasar Bharati (Broadcasting Corporation of India) Amendment Bill, 2010 was introduced in the Lok Sabha on May 7, 2010 by the Minister of State for Science and Technology and Earth Sciences, Shri Prithviraj Chauhan. The Bill was referred to the Standing Committee on Information Technology, which is scheduled to submit its report in two months.

- The Bill amends the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 which establishes the Broadcasting Corporation (Prasar Bharati) and defines its composition, functions and powers.
- The Prasar Bharati was established on November 23, 1997 and consists of Akashvani (All India Radio) and Doordarshan. The primary function is to provide public broadcasting services. Both Akashvani and Doordarshan.
- The Act allows the central government to transfer officers and employees serving in Akashvani and Doordarshan to Prasar Bharati on certain conditions.
- The Bill amends the provisions to state that all posts in Akashvani and Doordarshan other than some specified posts shall be deemed to have been transferred to the Prasar Bharati with effect from April 1, 2000. The specified posts are: officers and employees of the Indian Information Service, the Central Secretariat Service or any cadre outside Akashvani and Doordarshan but connected to Prasar Bharati. It also lists the conditions of transfer.
- All employees and officers recruited to Akashvani or Doordarshan shall be deemed to be on deputation till retirement if they were appointed before April 1, 2000. Officers and employees recruited on April 1, 2000 till October 5, 2007 shall be deemed to be on deputation to Prasar Bharati.
- Any person recruited after October 5, 2007 shall be officers and employees of Prasar Bharati.

- These officers and employees shall be entitled to the pay benefits of a central government employee but no deputation allowance.
- Prasar Bharati shall have the disciplinary and supervisory powers over these employees, except the power to impose compulsory retirement or dismissal from service. These powers can be exercised by the central government.

The Academy of Scientific and Innovative Research Bill, 2010

The Academy of Scientific and Innovative Research Bill, 2010 was introduced in the Lok Sabha on July 30, 2010 by the Minister of State for Science and Technology, Earth Sciences, Shri Prithviraj Chauhan.

- The Bill seeks to establish the Academy of Scientific and Innovative Research in association of the Council of Scientific Research (CSIR). It also seeks to declare the Academy as an institution of national importance.
- The main objects of the Academy are to (a) disseminate knowledge in science and technology by providing teaching and research facilities in areas to be prescribed; (b) undertake inter-disciplinary studies and research; (c) conduct courses in multi-disciplinary areas such natural sciences, life sciences, medical sciences, engineering, applied art and humanities; and (d) establish linkages with industries in India and abroad to promote science and technology. It seeks to focus on research in areas not ordinarily taught in Indian universities.
- The Academy shall consist of various authorities such as a Board, Senate, Director and Boards of Studies. The composition of each body is specified in the Bill.
- The chairperson of the Board shall be appointed by the President of CSIR on recommendation of a Selection Committee. Other members include Director-General of CSIR, President of Indian National Science Academy, the Chairman, Atomic Energy Commission, the Chairman, Space Commission, four distinguished scientists or academicians (two from outside India), three industrialists or technologists etc.
- The Board shall be responsible for the general superintendence, direction and control of the Academy. The Senate shall be responsible for maintenance of standards of instruction, education and

examination in the Academy. The Director, appointed by the President of CSIR on recommendation of Selection Committee, shall be the principal academic and executive officer of the Academy.

- The Academy shall sign a MoU with CSIR within two weeks of the Act coming into force. It shall be affiliated with CSIR for academics, teaching and award of any degree or diploma. It shall also be allowed to use the infrastructure and scientific manpower of CSIR.
- The functions of the Academy include: (a) provision for instruction and research in various multi-disciplinary areas and other emerging areas of knowledge; (b) laying down administrative standards and matters related to creation of posts, compensation packages and contractual arrangements; (c) designing curriculum and pedagogy to award degrees, diplomas and certificates; (d) organizing extra-mural studies; (e) providing distance education; (f) setting up schools, campuses and centres to conduct classes; (g) fixing fees and determining standards of admission; and (h) borrowing money on the security of the property of the Academy for the purpose of the Academy.
- In order to perform these functions, the Academy shall admit student on merit but without any distinction of race, class, caste, creed or sex, follow innovative methods of evaluation, allow students to participate in governance of academic matters.
- The Academy shall maintain a fund which shall include all fees received, funds for projects, income from investments made by the Academy, and funds received from CSIR. The funds shall be used for meeting salaries and expense of the Academy in discharging the functions. The Budget has to be approved by the Board.
- The Academy has to maintain accounts and get it audited before six months to the end of the financial year.
- The Board has the power to enact statutes of the Academy on certain specified matters.
- The functioning of the Academy shall be reviewed every four years by persons appointed by CSIR. In addition, the Board may conduct reviews of administrative and academic wings of the Academy.
- The Academy shall have flexible compensation system, which recognizes performance.

Bills Passed

Three Bills related to this sector were passed in the Monsoon session of Parliament.

The Civil Liability for Nuclear Damage Bill, 2010

The Civil Liability for Nuclear Damage Bill, 2010 was introduced in the Lok Sabha on May 7, 2010 by the Minister of State for Science and Technology and Earth Sciences, Shri Prithviraj Chauhan. The Bill was passed by the Lok Sabha on August 25, 2010 and the Rajya Sabha on August 30, 2010.

- The main features of the Bill are:
 - a. It defines nuclear incidents and nuclear damage, nuclear fuel, material and nuclear installations, and also operators of nuclear installations.
 - b. It lays down who will be liable for nuclear damage, and the financial limit of the liability for a nuclear incident.
 - c. It creates authorities who will assess claims and distribute compensation in cases of nuclear damage. It also specifies who can claim compensation for nuclear damage, and how compensation can be claimed and distributed.
 - d. It specifies penalties for not complying with the provisions of the Bill.
- Nuclear damage means (a) loss of life or injury to a person, or loss of, or damage to property caused by a nuclear incident (b) economic loss arising out of such damage to person or property, (c) costs of measures to repair the damage caused to the environment, and (d) costs of preventive measures.
- The Atomic Energy Regulatory Board has to notify a nuclear incident within 15 days from the date of a nuclear incident occurring.
- The operator of a nuclear installation will be liable for nuclear damage caused by a nuclear incident in that installation or if he is in charge of nuclear material. If more than one operator is liable for nuclear damage, all operators shall be jointly, and also individually liable to pay compensation for the damage. The Bill also provides certain exceptions to an operator's liability.
- The Bill allows only entities owned or controlled by the government to operate nuclear installations. Government companies are defined as companies where the government owns at least 51 per cent of the share capital of the company. This implies that joint ventures between government and private entities may

be permitted with the private company being a minority shareholder.

- The government may assume the liability of a nuclear installation by notification if it feels that doing so is in the public interest.
- The operator has a right of recourse against the supplier and other individuals responsible for the damage under certain conditions.
- The Bill states that the total liability for a nuclear incident shall not exceed 300 million Special Drawing Rights (Approximately Rs 2100 crore at current exchange rates). The government can provide additional relief if the cap of 300 million SDR is insufficient in some cases.
- Within this amount, the liability of the operator shall be Rs 1,500 crore. If the liability exceeds Rs 1,500 crore, the central government shall be liable for the amount exceeding Rs 1,500 crore (up to SDR 300 million). If damage is caused in a nuclear installation owned by the central government, the government will be solely liable.
- The Bill allows the central government to create two authorities by notification:
 - a. Claims Commissioner: The Claims Commissioner will have certain powers of a civil court. Once a nuclear incident is notified, the Commissioner will invite applications for claiming compensation.
 - b. Nuclear Damage Claims Commission: If the central government thinks that with regard to a nuclear incident (a) the amount of compensation may exceed Rs 500 crore, or (b) it is necessary that claims will be heard by the Commission and not the Claims Commissioner, or (c) that it is in public interest, it can establish a Nuclear Damage Claims Commission. The Commission shall have the same powers as that of a Claims Commissioner.
- An application for claiming compensation can be made by (a) person sustaining the injury, (b) owner of the damaged property, (c) legal representative of a deceased person, or (d) an authorised agent. An application can be made within three years from the date of the person having knowledge of nuclear damage. This right to make an application is however exhausted after a period of ten years from the date of the notification of the nuclear incident.

The Mines and Minerals (Development and Regulation) Amendment Bill, 2008

The Mines and Minerals (Development and Regulation) Amendment Bill, 2008 was introduced in the Rajya

Sabha on October 17, 2008 by the Minister of Mines, Shri Sis Ram Ola. The Bill was passed by the Lok Sabha on August 21, 2010 and the Rajya Sabha on August 17, 2010.

- The Bill amends the Mines and Minerals (Development and Regulation) Act, 1957, which regulates mines and development of minerals.
- The 1957 Act states that prospecting or mining operations can be undertaken only after obtaining a prospecting licence or a mining lease. It specifies rules for granting licences or leases.
- The Bill seeks to allow the state government to grant a prospecting licence or mining lease for coal and lignite to private companies through auction by competitive bidding. The companies that can bid should be engaged in production of iron and steel, general of power and washing of coal obtained from mines.
- Certain areas are exempted from the auction. These includes (a) areas which are considered for allocation to a government company, and (b) areas which is considered for allocation to a company that has got a power project on the basis of competitive bids for tariff.

The Energy Conservation (Amendment) Bill, 2010

The Energy Conservation (Amendment) Bill, 2010 was introduced in the Lok Sabha on March 8, 2010 by the Minister of State for Power, Shri Bharatsinh Solanki. The Bill was passed by the Lok Sabha on May 4, 2010 and is pending in the Rajya Sabha.

- The Bill amends the Energy Conservation Act, 2001. The Energy Conservation Act empowers the government to specify norms and standards of energy efficiency to be followed by different industries (who are specified in a schedule to the Act) in their use of power. Norms and standards of energy efficiency and conservation are also to be set for appliances and equipment, and the construction of buildings. The Act empowers state governments to enforce its various provisions.
- The Act also establishes the Bureau of Energy Efficiency under the central government to specify qualifications and certification procedures for energy auditors and managers who shall audit the use of energy by industries.
- The Bill expands the scope of energy conservation norms for buildings and tightens the applicability of energy efficiency norms for appliances and equipment. It provides a framework within which savings on energy use can be traded between those industries who

are energy efficient and those whose consumption of energy is more than the maximum set by the government. The Bill increases penalties for offences and provides for appeals to be heard by the Electricity Appellate Tribunal set up under the Electricity Act, 2003.

- Under the Act, the government could specify energy conservation building codes for commercial buildings with a connected load of more than 500 kW or contract demand of 600 kVA. The Bill broadens the range of commercial buildings to which such building codes apply to those with a connected load of more than 100 kW, or contracted demand of more than 120 kVA.
- Under the Bill, the central government can issue energy savings certificates to those industries whose energy consumption is less than the maximum allowed. Such certificates can be sold to other consumers whose consumption is more than the maximum allowable.
- The Act empowers the government to specify energy consumption norms for equipment or appliances. The government can also prohibit the manufacture, sale, purchase or import of notified equipment unless they conform to such norms. However, this prohibition can only be issued two years after the norms have been

specified. The Bill reduces this time frame to six months, extendable by a further six months.

- The Bill increases the penalty specified for offences committed under the Act. Each offence shall attract a penalty of Rs 10 lakh (Rs 10,000 earlier), with an additional penalty of Rs 10,000 for each day that the offence remains (Rs 1000 earlier). The additional penalty, for those industries who consume energy in excess of norms, will be the value of the excess energy consumed.
- The Act provided for the setting up of an Appellate Tribunal for Energy Conservation, which would hear appeals against orders of the central or state government. The Bill does away with this provision and provides for appeals against such orders to be heard by the appellate tribunal established under the Electricity Act, 2003.
- The Bill increases the term of office of the Director General of the Bureau of Energy Efficiency from three to five years. It provides for the Bureau, rather than the Central Government, to appoint its officers and staff.

Summary of Standing Committee Reports

The Protection and Utilisation of Public Funded Intellectual Property Bill, 2008

- The Standing Committee on Science and Technology, Environment and Forests (Chairperson: Dr T. Subbarami Reddy) tabled its 211th Report on 'The Protection and Utilisation of Public Funded Intellectual Property Bill, 2008' on August 2, 2010. The Bill was introduced in the Rajya Sabha on December 15, 2008.
- The Statement of Objects and Reasons of the Bill states that the resources generated out of intellectual property will prompt self-reliance among universities and minimise dependence on public funds. The Committee states that it is an unfounded assertion. Also, the government cannot absolve itself of the responsibility of providing adequate funds. Therefore, it recommended that this para be amended.
- The Committee suggested that a separate Bill on Research and Development be introduced which could encourage research on matters of interest to the common man such as malaria, cholera, tuberculosis, diabetes etc.
- The Committee is of the view that the Bill needs to maintain a balance between the social sector and market driven model. Therefore, it proposed that a uniform policy on licencing cannot be adopted. It has to be decided on a case by case basis. For example, drugs for malaria or tuberculosis should be given non-exclusive licencing. However, revenue maximisation by allowing exclusive licencing can be allowed for drugs which are not used much in India. There should be a provision for reviewing the operation of license at regular intervals. Also, the government should have the power to revoke a licence to ensure societal benefit in extreme cases.
- The penal provisions, recommended the Committee, should be more moderate so that it does not deter genuine researchers and scientists.
- The Committee suggested that there should be more transparency in public funded intellectual property.

Summary of Key Legislative News (July 27-September 14)

[Insurers want pool for nuclear plants](#), Business Standard, July 27

The insurance companies want to propose the creation of a pool of funds for nuclear insurance.

[N-liability bill faces rough ride in standing committee](#), Times of India, July 30

The report states that it is unlikely that the standing committee's report on the Civil Liability for Nuclear Damage Bill will be finalised during the current session. With just 11 Congress members in the committee and a united Opposition, the clause-by-clause discussion on the bill has been deferred and no new date has yet been fixed.

[Open Bidding of Coal Blocks to Bring Greater Transparency](#), PIB, August 11

With a view to bringing in greater transparency and objectivity in the process of allocation of coal blocks, the Mines and Minerals (Development and Regulation) Amendment Bill, 2008 which was introduced in the Rajya Sabha seeks to adopt auctioning of coal and lignite blocks for captive use through competitive bidding as the selection process in lieu of dispensation through the Screening Committee route.

[BJP forces Centre to defer Civil Nuclear Liability Bill](#), DNA, August 12

The Standing Committee studying the draft Civil Liability for Nuclear Damage Bill has sought a week of extension to submit its report. The Opposition suggested that the discussion on the Bill should be postponed and few other amendments to be added.

[Government set to let suppliers off the hook](#), Hindu, August 19

In its report submitted to Parliament, the Standing Committee on Science & Technology suggested a change in the nuclear liability Bill, making the recovery of damages from a supplier even in the event of gross negligence dependent on his prior acceptance of liability in a written contract. This is a major dilution of the existing provision.

[Nuclear liability bill silent on impact of radiation on plant workers](#), DNA, August 19

The problem of radiation, which affects the health of workers at the plant and the people living around it, has been ignored in the drafting of nuclear liability Bill. Health secretary K Sujatha Rao said that the ministry was not even consulted before the Bill was sent for cabinet approval. There still existed many gaps in the current bill.

[Moral hazard of indemnifying suppliers](#), Hindu, August 21

The article puts forth the point that India is bowing down to the US pressure rather than making a law for Indian people. This piece compares the Civil Liability for Nuclear Damage bill to various other similar laws in the world. The authors also feel protecting suppliers from lawsuits creates an example of Moral Hazard.

[Coal block allocation to become transparent](#), Business Line, August 21

Parliament has passed the Mines and Minerals (Development and Regulation) Amendment Bill 2010 after the government gave an assurance of full transparency and objectivity in the selection process for allocation of coal and lignite blocks to private companies.

[Don't nuke civil liabilities Bill](#), Economic Times, August 24

The author states that although the Civil Liability for Nuclear Damage Bill, 2010 has been extensively debated, it appears that both the critics and the supporters of the Bill have misunderstood its provisions and have failed to appreciate its terms. This piece explains these misunderstandings.

[This is no way to write a law](#), Hindu, August 25

This article observes that the nuclear liability bill drafting process has been marred by lack of consultation and transparency. The author argues that the government ought to elaborate up front on why it does not believe that the suppliers should be indirectly liable for any potential nuclear accident.

[Centre ready to drop "intent"](#), Hindu, August 25

The union government, in its efforts to arrive at a formulation acceptable to the Bharatiya Janata Party and the Left parties, seemed set to drop the provision in Clause 17 (b) of the Civil Liability for Nuclear Damage Bill, 2010 regarding "intent" on the part of the suppliers.

["We cannot ignore the nuclear option"](#), Hindu, August 26

Prime Minister Manmohan Singh categorically stated that the Civil Liability for Nuclear Damage Bill, 2010 "seeks to end nuclear apartheid" against India in nuclear power. He feels that nuclear power was a "viable" option which simply could not be ignored and hence, opposition's charge that the legislation was made to suit American Interests was false.

['Intent' dropped; Lok Sabha adopts nuclear liability Bill](#), Hindu, August 26

The Parliament passed the nuclear liability Bill after the government managed to get the support of the Opposition parties for the Bill. It decided to drop the contentious provision of "intent" as a precondition for holding suppliers liable for a nuclear accident caused by defective equipment.

['Flawed' liability bill threatens Indo-US nuclear deal: Expert](#), Times of India, September 1

An American expert on South Asian affairs, Lisa Curtis, from the Heritage Foundation termed the civil nuclear liability Bill that was passed by the Parliament as "flawed". She added that the US policy makers and industrial leaders were taken off guard by this and it threatens to cast a pall over the historic Indo-US civilian nuclear deal.

[Cos with captive mines to share profits with affected people](#), Economic Times, September 3

The government plans to implement a policy intended to give those displaced by mining a share in the profits of the miners despite a less than enthusiastic response from industry. The policy, part of a legislation setting the rules for investment in mining, will also apply to captive mines of companies such as Tata Steel, SAIL and Hindalco.

[Ansari questions insertion in N-bill report](#), Times of India, September 4

Rajya Sabha chairman Hamid Ansari questioned the manner in which the standing committee's report on the civil nuclear liability bill was dealt with by the panel's chairman T Subirami Reddy. His statement also indicted the joint secretary for mishandling the report, saying official of that rank should exert "better acumen and judgment on such occasions".

[Captive coal bidders face new riders](#), Business Standard, September 7

A Bill to introduce the new regime by amending the Mines and Minerals (Development and Regulation) Act, 1957, was passed by Parliament last month. The ministry of coal is considering a proposal to commit at least 5 per cent of profits from a project for local area development under guidelines being finalised for competitive bidding of captive coal blocks.

'Niyamgiri, Cairn unrelated', Economic Times, September 8

The Mines and Minerals (Development and Regulation) Bill, 2010, proposed that provisions of Fifth or Sixth Schedule of the Constitution will be invoked for grant of mineral concessions. The Fifth and Sixth Schedules stipulate that mining in tribal areas be done only by government companies after approval by tribal panchayats or co-operative societies formed in the districts directly or indirectly affected by the mining projects.

US indicates it is unhappy with the nuclear liability Bill, Live Mint, September 9

The US has indicated its unhappiness with the nuclear liability Bill. The US department of state spokesman P.J. Crowley said the US would continue “discussions” with the Indian government on the issue. Other US experts also criticised the Bill from various aspects.

US seeks changes in Nuclear Liability Bill, Economic Times, September 9

The United States has begun pressuring India to be mindful of the concerns of foreign suppliers when rules are framed for the civil nuclear liability bill passed by Parliament. A report from Washington quoting State Department spokesman P J Crowley said the US will look to India to see what changes can be made in the law passed by Parliament.

US could raise nuclear bill bogey during Obama visit, Times of India, September 10

The US dissatisfaction with the nuclear liability bill and New Delhi's refusal to change the legislation may sour the mood before Obama's visit. Commerce minister Anand Sharma is likely to hear an strong outburst from the US on the nuclear bill, as it makes suppliers liable; US firms believe it is designed to keep American companies out.

Sector 3: Human Resource Development, Health and Labour

	Chairperson	Contact Information
Committee on Health & Family Welfare	Shri Brajesh Pathak	C/I/14, Humayun Road New Delhi 110001 Tel. : 23795000
Committee on Human Resource Development	Shri Oscar Fernandes	8, Pt. Pant Marg, New Delhi 110001 Tel.: 23359177, 23359178, 9868181313
Committee on Social Justice & Empowerment	Shri Dara Singh Chauhan	30, Canning Lane New Delhi 110001 Tel.: 9013180777
Committee on Labour	Shri Hemanand Biswal	Orissa Bhawan, New Delhi Tel.: 9013180304

Summary of Key Bills

Bills Introduced

The government introduced four Bills related to this sector in the Monsoon session of Parliament.

The Architects (Amendment) Bill, 2010

The Architects (Amendment) Bill, 2010 was introduced in the Rajya Sabha on August 31, 2010 by the Minister of Human Resource Development, Shri Kapil Sibal. The Bill was referred to the Standing Committee on Health and Family Welfare, which is scheduled to submit its report within two months.

- The Bill seeks to amend the Architects Act, 1972 which provides for the registration of architects.
- The Act empowers the central government to establish a Council of Architecture, which may prescribe minimum standards of architectural education in India and shall maintain the register of architects.
- The Act states that the tenure of an elected or nominated member of the Council is three years from the date of election or nomination or until his successor has been duly elected or nominated, whichever is later. The Bill deletes the provision that allows a member to remain in the Council till his successor is appointed so that he does not continue after his tenure.
- The Bill states that names and addresses of each member of the Council shall be notified by the central government.
- The central government may issue directions to the Council if it feels that is necessary to do in public interest. The reasons shall be recorded and communicated to the Council. The directions may include requiring the Council to amend any regulations in a specified time and give priority to any work undertaken by the Council in a specified manner.
- The central government may supersede the Council for a maximum of two years if it fails or persistently defaults in the performance of its duties, has exceeded or abused its powers or has willfully not complied with the directions of the central government. The Council shall be allowed to explain and raise objections.

The Institute of Technology (Amendment) Bill, 2010

The Institute of Technology (Amendment) Bill, 2010 was introduced in the Lok Sabha on August 30, 2010, by the Minister of Human Resource Development, Shri Kapil Sibal.

- The Bill seeks to amend the Institutes of Technology Act, 1961, which declares certain Institutes of Technology to be institutions of national importance.
- The Bill seeks to add eight new Indian Institutes of Technology in Bhubaneswar, Gandhinagar, Hyderabad, Indore, Jodhpur, Mandi, Patna, Ropar. It also seeks to integrate the Institute of Technology, Banaras Hindu University within the ambit of the Act. All these institutions shall be declared as institutions of national importance.
- The Bill allows the central government to notify zones in the country. Each institute has the duty to support and collaborate with technical education institutions that fall within its respective zone to enhance their quality. It shall also advise the state government and the Union Territory in the matter of technical education within its zone.
- It provides for the incorporation of the Indian Institute of Technology (Benaras Hindu University), Varanasi and lays down the conditions of employment.

The Central Educational Institutions (Reservation in Admission) Amendment Bill, 2010

The Central Educational Institutions (Reservation in Admission) Amendment Bill, 2010 was introduced in the Rajya Sabha on August 6, 2010 by the Minister of Human Resource Development, Shri Kapil Sibal.

- The Bill seeks to amend the Central Educational Institutions (Reservation in Admission) Act, 2006, which reserves seats for students who are SC/ST and OBCs (Principal Act).
- There are two key amendments. Reservation for Other Backward Classes (OBCs) in tribal areas under the Sixth Schedule is being amended. Second, the time-frame for full implementation of the Act is being extended.

Tribal areas

- The Principal Act provides for reservation of seats for students belonging to the Scheduled Castes (SCs), Scheduled Tribes (STs) and OBCs in certain central educational institutions. It states that out of the annual permitted seats for a branch of study or faculty, 15% seats shall be reserved for SCs, 7.5% seats for STs and 27% for OBCs.
- The Bill seeks to add a proviso that if there are central educational institutions in a tribal area under the Sixth Schedule of the Constitution, the state seats in those institutions shall have reservation for SCs, STs and OBCs. The quantum of reservation shall be prescribed by the state government. State seats refer to seats allocated for eligible students of the state in which the central educational institution is situated.
- If the central educational institutions in the tribal areas do not have state seats and the seats reserved for SCs or STs or a combination of SC and ST seats exceed the percentage specified in the Act, the Bill states that certain seats shall be reserved for OBCs. If the total number of seats reserved is less than 50% of the annual permitted strength, then the number required to reach 50% shall be reserved for OBCs.
- If the total number of seats reserved for SCs and STs exceed 50%, there shall be no reservation for OBCs and the total percentage of reserved seats shall be reduced to 50% in all areas except the specified north-east region (Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, and tribal areas of Assam).

Time-frame

- The Principal Act requires institutions to increase the total number of seats in such a manner that the number of unreserved seats (general category) is not reduced due to reservation for OBCs. This was based on the number of seats available for general category before the Act was passed. The Bill modifies this to the lower of (a) number of seats available; (b) number of seats filled.
- The Principal Act states that in case the central government decides that a central educational institution is not able to increase the seats to its annual permitted strength due to financial, physical or academic limitation, it may allow such institutions to increase the seats within three years. The Bill increases the time period to six years.
- The Principal Act states that reservation of seats shall begin in 2007. The Bill amends this to 2008. Thus, the time-frame has been extended to 2014 (from 2010).

The Jawaharlal Institute of Post-Graduate Medical Education and Research, Puducherry (Amendment) Bill, 2010

The Jawaharlal Institute of Post Graduate Medical Education and Research, Puducherry (Amendment) Bill, 2010 was introduced in the Rajya Sabha on August 5, 2010. The Bill was referred to the Standing Committee on Health and Family Welfare, which is scheduled to submit its report by October 31, 2010.

- The Bill seeks amend the Jawaharlal Institute of Post Graduate Medical Education and Research, Puducherry Act, 2008, which declared it as an institution of national importance.
- Before the Act came into force, the institution was operating under the Ministry of Health and Family Welfare. The Act gave its employees the option of remaining with the autonomous institution or opting out and remaining as a central government employee. The employees had to exercise this option within one year.
- The Bill extends this period to two and a half years and allows the employees who have already chosen an option to exercise it afresh.

Bills Passed

In this session, Parliament passed five Bills related to this sector.

The Indian Medicine Central Council (Amendment) Bill, 2010

The Indian Medicine Central Council (Amendment) Bill, 2010 was introduced in the Rajya Sabha on May 6, 2010 by the Minister of Health and Family Welfare Shri Ghulam Nabi Azad. The Bill was passed by the Lok Sabha on August 31, 2010 and Rajya Sabha on August 25, 2010.

- The Bill seeks to amend the Indian Medicine Central Council Act, 1970, which created a central council to regulate ayurveda, siddha, and unani medicine, set minimum standards for education, and maintain a register of all practitioners in these fields.
- The Bill seeks to include the Sowa-Rigpa system of medicine practiced in the sub-Himalayan region within the definition of Indian medicine.
- Currently, the council has members from states with registered ayurveda, siddha, and unani practitioners, a

representative from each university, and centrally appointed members with specialized knowledge. The Bill seeks to include registered practitioners of Sowa-Rigpa in the Council.

The Indian Medical Council (Amendment) Bill, 2010

The Indian Medical Council (Amendment) Bill, 2010 was introduced in the Lok Sabha on August 5, 2010 to replace an Ordinance. The Bill was passed by the Lok Sabha on August 20, 2010 and the Rajya Sabha on August 25, 2010.

- The Bill amends the Indian Medical Council Act, 1956, which was enacted to reconstitute the Medical Council of India (MCI) and maintain a medical register. MCI makes recommendations to the central government on matters related to recognition of medical qualifications, determining the courses of study, inspection of examinations and maintenance of register of medical practitioners, etc.
- In view of issues in the functioning of MCI, the Bill provides for the supersession of MCI and its reconstitution within a period of one year.
- A Board of Governors shall exercise the powers and functions of MCI till the body is reconstituted. The Board shall be notified by the central government. It shall include persons of eminence in fields of medicine and medical education. These members may be nominated or ex-officio to be appointed by the central government.
- Two-thirds of the members shall constitute the quorum for meetings.
- If a member has an interest in any matter to be decided by the Board, he shall declare such interest. The Board of Governors may decide if he can participate in the proceedings.
- The Board shall have the power to grant permission to establish new medical colleges or opening higher course of study or increase admission capacity without prior permission of the central government.
- The Board and MCI on reconstitution shall be bound by the directions given by the central government on matters other than technical and administrative matters.

The Industrial Disputes (Amendment) Bill, 2009

The Industrial Disputes (Amendment) Bill, 2009, was introduced in the Rajya Sabha on February 26, 2009 by the Minister of Labour and Employment Shri Oscar Fernandes. The Bill was passed by the Lok Sabha on August 10, 2010 and the Rajya Sabha on August 3, 2010.

- The Bill amends the Industrial Disputes Act, 1947. The Act provides for settlement of disputes between workers and management.
- Persons who are employed in a supervisory capacity and draw more than Rs 1,600 per month are excluded from the purview of the Act. The Bill raises this ceiling to Rs 10,000 per month.
- Depending on the type of institution involved in an industrial dispute, either the central or the state government is given powers to administer various provisions of the Act. The Bill expands the list of institutions for which disputes will be administered by the central government to include : (a) companies where 51% or more of shares are held by the central government, (b) central public sector undertakings or their subsidiaries (c) corporations set up under a law made by Parliament and (d) autonomous bodies owned or controlled by the central government.
- The Bill specifies that state governments shall administer disputes in state public sector undertakings or their subsidiaries. State governments shall also administer disputes in autonomous bodies owned or controlled by them.
- Under the Act, a worker whose services were terminated can complain to the government, which may refer the case to a court or tribunal. The Bill allows a workman to directly approach the court or tribunal three months after filing such a complaint. An application to the court or tribunal must be made within three years of termination of service.
- The Bill requires all industrial establishments with more than 20 workmen, to set up one or more grievance redressal committees to resolve grievances of individual workmen.
- The committee shall consist of up to six members with equal representation from the employer and the workmen, with adequate representation for women. The chairperson shall be appointed alternately by the employer or from amongst the workmen every year.
- The committee must reach a decision on any complaint within 45 days. Workmen can appeal against the decision to the employer, who has a month to respond.
- The existence of such a committee does not affect the rights available to workmen under other provisions of the Act.

- The Bill broadens the scope of qualifications required for presiding officers of courts or tribunals established under the Act. Such officers can now include those who (a) have been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner, with a degree in law, and at least seven years experience in the Labour Department, including three years as a conciliation officer, or (b) have been an officer of the Indian Legal Service with three years experience in Grade III.
- All awards or settlements made by labour courts or tribunals shall be executed by the relevant civil court according to the Code of Civil Procedure.

The National Commission for Minority Educational Institutions (Amendment) Bill, 2009

The National Commission for Minority Educational Institutions (Amendment) Bill, 2009, was introduced in the Lok Sabha on February 17, 2009 by the Minister of Human Resource Development Shri Kapil Sibal. The Bill was passed by the Lok Sabha on May 4, 2010 and the Rajya Sabha on August 5, 2010.

- The Bill amends the National Commission for Minority Educational Institutions Act. The Commission advises the central and state government on issues related to minority institutions.
- The Principal Act defines minority educational institutions as a college or institution established and maintained by individuals from a minority community. The Bill substitutes the words “established or maintained” with “established and administered”.
- The Principal Act specifies that any person who wishes to establish a minority educational institution may apply to the competent authority for a no objection certificate. In this Bill, the certificate shall be granted subject to the provisions contained in any other law.
- The Commission has the power to grant minority status, reject applications, and address appeals. After receiving an appeal, the Principal Act requires the Commission to consult with the state government to make a final decision. The Bill removes this requirement when deciding appeals.
- The National Commission for Minority Educational Institutions shall include a chairperson and two members appointed by the central government. The Bill increases the number of members to three.

The Clinical Establishments (Registration and Regulation) Bill, 2010

The Clinical Establishments (Registration and Regulation) Bill, 2010 was introduced in the Lok Sabha on April 15, 2010 by the Minister of Health and Family Welfare, Shri Ghulam Nabi Azad. The Bill was passed by the Lok Sabha on May 3, 2010 and the Rajya Sabha on August 3, 2010.

- The Bill shall be applicable to all union territories and four states (Arunachal Pradesh, Himachal Pradesh, Mizoram, and Sikkim). Other states may adopt the law by passing a resolution in the state legislatures.
- The Bill seeks to register and regulate clinical establishments. “Clinical establishment” is defined as hospitals and clinics and similar facilities that offer treatment for illness in any recognised system of medicine (allopathy, yoga, naturopathy, ayurveda, homoeopathy, siddha and unani). It also includes any laboratory which offers pathological, chemical and other diagnostic services. An establishment can be owned by the government, a trust, and a single doctor establishment. The Bill does not apply to any clinical establishment owned or managed by the Armed Forces.
- The central government shall establish a National Council of Clinical Establishments to (a) determine the minimum standards of health care by a clinical establishment; (b) classify them into categories; and (c) maintain a national register of clinical establishments. The Council shall be chaired by the Director General of Health Services (DGHS) and 22 other members (includes consumer groups and Associations of Indian Systems of Medicine).
- Every clinical establishment has to be registered to admit patients for providing treatment. Norms required to be met prior to registration include (a) minimum standards of facilities; and (b) minimum qualifications for the personnel. It may prescribe different minimum standards for each category of clinical establishment.
- National Register shall be compiled within two years from the date of commencement of the law and determine the first set of standards for clinical establishments within two years of setting up the Council.
- Every state government shall establish a State/Union Territory Council for clinical establishments. Members shall include Secretary, Health; Director of Health Services; elected representatives from state Medical Council, Nursing Council and Pharmacy Council, and state-level consumer groups or reputed NGOs etc.

- The state government shall set up a district registering authority for registering clinical establishments at district level. Members shall be the District Collector, the District Health Officer and 3 members with such qualifications to be prescribed by central government. However, the District Health Officer and Chief Medical Officer shall act as registering authority for provisional registration.
- The functions of the Council include compiling state registers and hearing appeals against orders of the authority for registration.
- The central government shall notify standards for each type of clinical establishment. The Bill provides for a system of provisional and permanent registration. Provision registration may be granted for a year. For clinical establishment whose minimum standards have been notified, provisional registration will only be granted for a specified time-limit. Permanent registration shall be valid for five years and application for renewal should be made six months before expiry of registration.
- A clinical establishment, applying for permanent registration, has to submit evidence of it having complied with the prescribed minimum standard.
- The registering authority may authorise an inspection or an inquiry of any clinical establishment through a multi-member inspection team to be prescribed. A show cause notice may be issued if the authority feels that a clinical establishment is not complying with the conditions of its registration. It may also cancel the registration. The authority may enter and search in the prescribed manner after giving notice of its intention to the clinical establishment, if it suspects that an establishment is operating without registration.
- The Bill lists monetary penalties for any person violating the law, operating without registration or knowingly serving a clinical establishment which is not registered. It also outlines the inquiry and appeals process and states that while fixing penalty, the category, size and type of establishment should be considered.
- The provisions of this Bill shall not be applicable in nine states, which have laws related to clinical establishments. If these states adopt the 2010 Act, all provisions shall apply to them.



Summary of Standing Committee Reports

The Educational Tribunals Bill, 2010

- The Standing Committee on Human Resource Development submitted its 225th Report on 'The Educational Tribunals Bill, 2010' on August 20, 2010. The Chairperson was Shri Oscar Fernandes.
- The Bill seeks to set up educational tribunals at the national and state level in order to resolve disputes between universities, teachers and statutory regulatory authorities. The Committee recommended that the Bill be passed after incorporating the suggested amendments.
- The Committee observed that no specific assessment about quantum of litigation has been carried out. It recommended that before setting up tribunals, the magnitude of cases and costs incurred in litigation should be assessed. A minimum court fee should be fixed to ensure viability of the tribunals.
- At present, Orissa and Gujarat have state educational tribunals. However, their jurisdiction is limited to service condition of teachers, grants-in-aid etc. The Committee pointed out that the status of existing tribunals is unclear. Also, it is unclear if state governments would accept all the provisions regarding state tribunals.
- The state educational tribunal shall be composed of three members. The Committee observed that it would be difficult for a three member tribunal to take up sizeable number of cases. It recommended that there should be a five member state educational tribunal.
- Since the number of educational institutions vary from state to state, the Committee felt that one educational tribunal per state cannot be made uniformly applicable.
- The Committee stated that there is no clear rationale for fixing a minimum age limit of 55 years for members of the tribunals. It recommended that competent people with adequate knowledge and experience, irrespective of age, should be considered.
- In case there is a vacancy in the chairperson's post, other two members shall hear cases in the state educational tribunals. However, this leaves the possibility of cases being heard without a judicial member (since chairperson is the only judicial member). The Committee pointed out that a recent Supreme Court judgment states that every two-member bench of the tribunal should always have a judicial member. Also, whenever any larger or special

benches are constituted, the number of technical members should not exceed the judicial member. The Committee were of the view that certain provisions of the Bill violate the Supreme Court judgment and should be re-thought.

- The Committee recommends that the term "unfair practice" should be defined in the Bill so that it is not open to interpretation by the courts.
- The Committee expressed reservation about the composition of the national educational tribunal which shall have three Secretary to the government of India as members since it would lead to bureaucratization of tribunals. Also, they may not be easily available for sittings.
- The Selection Committee to recommend panel for national tribunal includes the Chief Justice of India and Secretaries, Higher Education, Law and Justice, Medical Education and Personnel and Training as members. The Committee recommended that there should be adequate representation of the academia in the Selection Committee.
- The Committee proposed that the government needs to identify the lacunae of the existing tribunal systems and ensure that orders of the tribunals have some force.
- The Committee stated that all viable alternatives such as setting up of district tribunals in areas where there are higher concentration of institutions should be explored.
- The Committee noted that the Bill does not include the word "student" in the main body. It should be made clear that students themselves can seek justice under the Bill.
- The Committee recommended that separate mechanisms needed to be devised to ensure justice in case of public and private institutions. Also, SC/STs should be duly represented in the tribunals.

The Transplantation of Human Organs (Amendment) Bill, 2009

- The Standing Committee on Health and Family Welfare (Chairperson: Shri Amar Singh) tabled its 44th Report on 'The Transplantation of Human Organs (Amendment) Bill, 2009' on August 4, 2010. The Bill was introduced in the Lok Sabha on December 18, 2009.

- The Bill amends the Transplantation of Human Organs Act, 1994, which regulates removal, storage and transplantation of human organs. The Committee recommended that instead of having a general provision for inclusion of tissues along with human organs in the entire Act, specific provisions relating to tissues may be incorporated in the Act. The definition of “tissue bank” should be included in the Bill.
- The Committee recommended that the transplant coordinator needs to possess specialised qualifications for counseling patients. These should be specified in the Rules. Also, the transplant coordinator should be given the task of requesting patients or their relatives to donate organs (required request) instead of the treating doctor.
- The Committee recommended that as eyes can be harvested even post-death, required request procedure in respect of eye donation may be done after the death of a patient.
- The Committee observed that although the Bill makes it mandatory for the hospital with ICU to inform in writing to the Human Organ Removal Centre for removal, storage or transplantation of human organs or tissues, neither the term 'Human Organ Removal Centre' has been defined nor specific functions assigned to it indicated. Thus, it recommended that the term should be defined and its functions specified.
- The Committee recommended that all hospitals with ICUs should be registered and ‘required request’ should not be allowed in hospitals that are not registered.
- The Committee suggested that there should be a larger pool of experts, duly approved by the Appropriate Authority, in order to ensure that the Board of Medical Experts does not face manpower crunch in its functioning.
- The Committee recommended that in order to protect minors and mentally challenged people, the circumstances under which they can donate organs should be specified in the Bill itself.
- The Committee proposed that the Authorisation Committee of a State/District/Hospital where the organ transplant is taking place should have jurisdiction over the case.
- The Committee stated that representatives of NGOs working in the field of Organ Donation should be included in the Advisory Committee.
- The Committee is of the opinion that there should be state level networks along with the Nation Human Organs and Tissue Removal and Storage Network.

The information should be put on a dedicated websites of all state health departments.

- The Committee recommended maintaining state registries of donors and recipients along with the national registry.
- The Committee noted that the penalty for illegal removal of tissues should be lower than for organs since it is less harmful.
- The Committee recommended that tissues can be taken from unclaimed dead bodies. Therefore, the issue should be examined for a viable solution.
- The Committee proposed that the post-mortem could simultaneously be carried out with the retrieval of the organs so as to minimise the delay in handing over body of the deceased to his relatives.
- The Committee suggested that organ retrieval from cadavers should be allowed from unregistered hospitals but the team should be from a registered hospital.
- The Committee felt that cadaveric donations should be promoted in the country through publicity drives such as pamphlets, advertisements, and documentaries. Also, families of cadaveric donors should be given due recognition. A National Organ Donation Day may be declared to generate awareness.

The National Council for Teacher Education (Amendment) Bill, 2010

- The Standing Committee on Human Resource Development (Chairperson: Shri Oscar Fernandes) tabled its 224th Report on ‘The National Council for Teacher Education (Amendment) Bill, 2010’ on July 30, 2010. The Bill was introduced in the Rajya Sabha on April 16, 2010.
- The Bill seeks to set standards of teacher qualification in all categories of schools. However, the term “school” has not been defined in the Bill. The Committee recommended that school be defined in the law.
- The Bill does not require existing teachers to have the minimum qualifications to be laid down by the Council. The Committee suggested that an effective mechanism needed to be evolved to provide adequate training to the teachers who need it so that quality is not compromised.
- The Committee strongly felt that the Act should clarify that minimum qualification for teachers in teacher education institutions shall be specifically provided in the Act.

- Since education is in the Concurrent List, the Committee observed that any policy change should be corroborated and substantiated by the state government. Therefore, there was need to convene a meeting of Education Secretaries in all states and UTs to evaluate the problems.
- The Committee recommended that while framing regulations for prescribing minimum qualification of teachers, NCTE should undertake a consultation process with the state governments so that uniform rules could be made with some flexibility for state-specific ground realities.
- The Committee is of the view that more teacher education institutions need to be opened in areas which have acute shortage of teachers. Also, a mechanism to assess and accredit teacher education institutions is necessary to ensure that quality education is imparted.
- The Committee noted that steps need to be taken for strengthening all categories of teacher training institutions so that component of pre-service and in-service training becomes an essential part of service of school teachers.
- The Committee recommended that the Bill be passed after incorporating the recommendations.

The Right of Children to Free and Compulsory Education (Amendment) Bill, 2010

- The Standing Committee on Human Resource Development (Chairperson: Shri Oscar Fernandes) tabled its 223rd Report on ‘The Right of Children to

Free and Compulsory Education (Amendment) Bill, 2010’ on July 30, 2010. The Bill was introduced in the Rajya Sabha on April 16, 2010.

- The Bill seeks to include children with disabilities within the ambit of the law. However, the Committee found that dyslexia is not covered within the definition of disability. Therefore, it recommended that dyslexia and any other type of disability, if existing also needed to be included in the definition.
- The Committee recommended that the Persons with Disabilities (Equal Opportunities, Protection and Full Participation) Act, 1995 be redrafted at the earliest since it had become obsolete.
- The Committee proposed that for children with disabilities, the option of going to a school that can cater to their specific needs should be available irrespective of it being a neighbourhood school or at a distance.
- The Committee pointed out that for better coverage of children with disabilities, Block Resource Centres/Cluster Resource Centres for a specified number of schools need to be specially resourced to cater to the needs of children with disabilities such as braille, sign language, other adapted learning materials.
- The Committee recommended that there should be option of better equipped schools for disabled children, especially in rural areas. Yoga classes and naturopathy may be used to benefit the children.
- The Committee is of the opinion that elementary education should not be made compulsory for children with severe or multiple disabilities.

Summary of Key Legislative News (July 27-September 14)

Bill in Rajya Sabha for uniformity in healthcare delivery, Hindu, August 6

The Rajya Sabha plans to discuss the Clinical Establishment (Registration and Regulation) Bill, which aims at bringing uniformity in the regulatory framework for healthcare establishments. Health Minister Ghulam Nabi Azad said that Health is a state subject and this would apply to the states that pass a resolution accepting the proposal.

MCI amendment Bill tabled in Lok Sabha, Hindu, August 6

The government tabled the Indian Medical Council (Amendment) Bill in the Lok Sabha, to replace the Ordinance promulgated on May 15 this year that superseded the Medical Council of India. The Bill provides for reconstitution of the Council within one year from the date of its supersession, until which time a Board of Governors shall exercise the powers and perform the functions of the Council.

Bill to ease rules for minority-run educational bodies to get recognition, Times of India, August 6

The Parliament passed a Bill seeking to give more powers to the National Commission for Minorities Educational Institutions (NCMEI) and make it easier for minority-run bodies to get recognition. The Bill allows an institution to approach the NCMEI directly in case a state government rejects its appeal for seeking the status of a minority institution.

Medical bill passed amid acrimony, The Economic Times, August 21

The Lok Sabha passed the Medical Council of India as well as amendments to the Trade Marks Bill within five minutes, as Samajwadi Party and Rashtriya Janata Dal MPs were demanding for the MP's salary hike. Agitated Bharatiya Janata Party, Samajwadi Party and Shiv Sena members sat on a dharna in the well of the House as they wanted to debate the bills.

Bills to regulate pvt sector in education in the offing, Indian Express, August 18

The Foreign Educational Institution (Regulation of Entry and Operation) Bill has divided the academic community. Supporters say it will give a boost to the higher education sector, increase choices and competition. The critics say it will cater to minuscule elite.

Parliamentary panel for consultations on educational tribunals bill, IANS, August 20

In its report to parliament, the standing committee on HRD pointed out that consultations have not been undertaken either with the states and private educational institutions on the Educational Tribunals Bill, 2010. This step is required as the states have a big role to play in setting up these tribunals.

Cabinet clears education bill, ignores panel suggestions, Times of India, August 24

The Union Cabinet cleared the Educational Tribunals Bill without incorporating any of the suggestions made by the Standing Committee of Parliament.

Education Tribunal Bill to address future disputes: Sibal, PTI, August 26

A legislation to form a system that provides prompt resolution of disputes pertaining to higher education institutions was passed by Lok Sabha, with HRD Minister Kapil Sibal saying it would provide a mechanism to resolve future conflicts in the education sector.

Bill passed in Rajya Sabha to recognise Sowa-Rigpa system of medicine, Times of India, August 26

The Indian Medicine Central Council (Amendment) Bill passed in the Rajya Sabha seeks to include Sowa-Rigpa along

with ayurveda, siddha and unani medicine, set minimum standards for education, and maintain a register of all practitioners in these fields. The Bill seeks to include registered practitioners of Sowa-Rigpa in the Council.

[Rajya Sabha passes bill for new board to replace MCI](#), Times of India, August 27

The Indian Medical Council (Amendment) Bill, 2005 seeks to change the composition of the MCI and increase its accountability to the central government. The Bill, passed by Lok Sabha, deems that MCI shall stand superseded and the president, vice-president and other members of the council shall vacate their offices and not claim any compensation.

[Education Tribunal Bill put off](#), Deccan Herald, August 31

The Education Tribunal Bill, 2010, which was passed in the Lok Sabha earlier, was introduced in the Rajya Sabha by Human Resource Development Minister Kapil Sibal. However, the minister had to defer the bill after it came under attack from members, cutting across political lines.

[Education Tribunal Bill: Sibal Meets PM](#), Outlook, August 31

Kapil Sibal had to defer the Education Tribunal Bill, 2010, which came under attack from Opposition members as also senior Congress leader K Keshava Rao in the Rajya Sabha. The HRD minister met Prime Minister Manmohan Singh and is understood to have discussed the issue with him.

[Education Tribunal Bill will be passed in next Session: Sibal](#), Indian Express, September 1

HRD Minister Kapil Sibal said he would not blame anybody for failure to pass the Educational Tribunals Bill and hoped the proposed legislation would be passed in the Winter session.

['Withdrawing bill a tactical retreat'](#), Times of India, September 2

Though Bansal and his colleagues Prithviraj Chavan and V Narayanasamy pointed to BJP suddenly switching its stand in the RS, they made it clear that sounding a tactical retreat was better than risking the Educational Tribunals Bill falling through.

[Law on free education referred to Constitution Bench](#), Hindu, September 6

The law providing free and compulsory education to children has come under judicial scrutiny with the Supreme Court deciding that its Constitutional validity be examined by a five-judge bench.

[SC orders RTE law review by larger Bench](#), Deccan Herald, September 6

The Supreme Court referred the newly enacted law that makes provision for private unaided educational institutions to provide free and compulsory education to children between ages six and 14 to a Constitution Bench to decide its constitutional validity.

[CCEA nod for revision of SSA](#), Times of India, September 10

In an attempt to expedite the implementation of the Right of Children to Free and Compulsory Education Act, the Cabinet Committee on Economic Affairs approved revision of the Sarva Shiksha Abhiyan, which is regarded as a flagship programme to universalise elementary education across the country.

[Cheema gives assurance on clinical bill](#), Times of India, September 12

The adviser to chief minister Parkash Singh Badal, Dr DS Cheema, on behalf of the CM assured not to impose the Clinical Establishment Bill in Punjab.

Sector 4: Transport, Tourism and Urban Development

	Chairperson	Contact Information
Committee on Transport, Tourism & Culture	Shri Sitaram Yechury	29, Ferozshah Road, New Delhi 110 001 Tel.: 23782030, 23747435, 23747436, 26898472, 23746244, 9868181162
Committee on Urban Development	Shri Sharad Yadav	7, Tughlak Road, New Delhi 110 003 Tel.: 23792738, 23017405
Committee on Railways	Shri T.R Baalu	10, Raisina Road, New Delhi 110 001 Tel.: 23359111, 23321010

Summary of Key Bills

Bills Introduced

The government introduced one Bill related to this sector in the Budget session of Parliament.

The Anti-Hijacking (Amendment) Bill, 2010

The Anti-Hijacking (Amendment) Bill, 2010 was introduced in the Rajya Sabha on August 19, 2010 by the Minister of State (Independent Charge) of the Ministry of Civil Aviation, Shri Praful Patel. The Bill was referred to the Standing Committee on Transport, Tourism and Culture, which is scheduled to submit its report within two months.

- The Bill seeks to amend the Anti-Hijacking Act, 1982. The Act states that any person who unlawfully, by force or intimidation seizes an aircraft commits the offence of hijacking. The Bill adds that any person (whether alone or in a group) who attempts to commit hijacking is guilty of the offence. Any person who abets such an offence is also guilty.
- The Act stipulates a penalty of life imprisonment and fine for the offence of hijacking. The Bill enhances the penalty for hijacking to death or life imprisonment and fine.

Summary of Standing Committee Reports

The National Road Safety and Traffic Management Board Bill, 2010

- The Standing Committee on Transport, Tourism and Culture (Chairperson: Shri Sitaram Yechury) tabled its 160th Report on 'The National Road Safety and Traffic Management Board Bill, 2010' on July 27, 2010. The Bill was introduced in the Lok Sabha on May 4, 2010.
- The Committee recommended that the Bill to create the Board for road safety and traffic management needed to be made comprehensive so that all aspects of road safety are incorporated.
- According to the Sundar Committee report, the basic problem was the existence of large number of agencies at the centre and state with little coordination among them. The Bill however does not do away with the existing agencies and the role of the Board is to aid and advise the Ministry. The Committee observed that the Bill is only adding yet another institution to the existing ones. It does not empower the Board to act as a coordinator among existing bodies.
- Since the Board can make recommendations on road safety only with relation to national highways, its mandate is limited. Almost 70% of all accidents occur in roads than national highways.
- The Committee noted that the Motor Vehicles (Amendment) Bill, 2007 has not been passed, which would have taken care of many road safety issues. Instead another Bill has been introduced. The Committee showed its disapproval at the idea of bringing legislative proposals to the Parliament piecemeal.
- The Committee asked the government to expedite the formulation of a National Road Safety Policy.
- The Committee pointed out that the qualification required of the Chairperson of the Board has been diluted from what was recommended in the Sundar Committee.
- The Committee stated that any measure for improving road safety and traffic management would not be successful unless the menace of corruption is taken care of.
- The Committee felt that instead of looking at the examples of US and Sweden to formulate Indian road safety policy, it will be better to look at Brazil or China since they would be of greater relevance.

- The Committee recommended that the Bill be withdrawn and the government should come out with a comprehensive legislation that addresses the entire gamut of road safety.

The Constitution (One Hundred and Twelfth Amendment) Bill, 2009

- The Standing Committee on Urban Development (Chairperson: Shri Sharad Yadav) tabled its 8th Report on 'The Constitution (One Hundred and Twelfth Amendment) Bill, 2009' on August 9, 2010. The Bill was introduced in the Lok Sabha on November 24, 2009.
- Article 243T of the Constitution provides that a minimum of one-third of the total number of seats filled by direct elections in every Municipality shall be reserved for women. The seats may be allotted by rotation to different constituencies in a Municipality. The Bill seeks to amend the article to enhance the quantum of reservation for women from one-third to one-half of the total seats in a Municipality. This is also applicable to offices of Chairpersons and seats reserved for SC/STs.
- The Committee observed that Article 243T(1) and the Bill have two separate set of rules for election of councillors of a municipality (reservation of seats based on proportion of SC/ST population of the area) and Chairpersons (to be reserved for SC/STs). It recommended that the total number of seats reserved for the post of the Chairperson should be based on the total urban population of SC/STs in the state.
- The Committee recommended that rotation cycle of seats reserved for women candidates may be extended to two terms in order to ensure that the candidates do not neglect local issues. It also suggested that there should be uniformity across states in the cycle of reservation.
- The Committee urged the government to ensure adequate funds and proper training to women councillors for capacity building, particularly SC/ST and backward classes so that the objectives of the Bill could be achieved in letter and spirit.

Summary of Key Legislative News (July 27-September 14)

[NDMC amendment Bill introduced in Lok Sabha, The Hindu, August 4](#)

A Bill to give local representatives under the New Delhi Municipal Council area in the Capital more say in the civic body was introduced in the Lok Sabha.

[Amendment bill gives politicians more say in running of NDMC, Times of India, August 10](#)

The amendments suggested in the New Delhi Municipal Council (Amendment) Bill, 2010 included that a public representative will preside over the meetings of the council as opposed to the present practice where the chairperson of NDMC presides over the meetings a bureaucrat usually presides over such meetings. According to sources, if the bill is passed, it will lead to more political interference.

[Bill introduced to award death for hijacking, Hindustan Times, August 19](#)

The government introduced a bill in the Rajya Sabha to amend the Anti-Hijacking Act, 1982 to include death penalty for hijacking of aircraft. The Anti-Hijacking (Amendment) Bill 2010, introduced by Civil Aviation Minister Praful Patel, seeks to strengthen the law by including new provisions to deal with hijacking.

[Bill to award death penalty to plane hijackers, Hindu, August 19](#)

The Anti-Hijacking (Amendment) Bill 2010, introduced in the Rajya Sabha by Civil Aviation Minister Praful Patel, seeks to have a provision to deal with hijacking, making the law more comprehensive and stringent.

[Panel backs bill on 50 pc women's quota in urban local bodies, IBNLive, August 31](#)

The Standing Committee on Urban Development approved the Constitution (One Hundred and Twelfth Amendment) Bill, 2009 that seeks to increase the number of reserved seats for women to 50 per cent in urban local bodies from the existing 33 per cent. The Committee, broadly agreeing to the Bill, however, suggested some changes in the proposed legislation.

[Ministry wants to pass bill rejected by House panel, Economic Times, September 11](#)

The transport ministry plans to go ahead with the National Road Safety and Traffic Management Board Bill, 2010 to create a national board to deal with road safety issues, unheeding a parliamentary standing committee's suggestion to withdraw it.

Sector 5: Agriculture and Rural Development

	Chairperson	Contact Information
Committee on Agriculture	Shri Basudeb Acharia	21, Ashoka Road, New Delhi 110001 Tel.: 23015555, 23795454, 9868180788
Committee on Food, Consumer Affairs and Public Distribution	Shri Vilas Muttemwar	1, Pt. Motilal Nehru Marg, New Delhi 110011 Tel.: 23792044 (R), 23018667, 24361193, 24360774, 23011576 9013180550
Committee on Chemicals & Fertilizers	Shri Gopinath Munde	Maharashtra Sadan, New Delhi 110011 Tel.: 23782160
Committee on Rural Development	Smt Sumitra Mahajan	8, G.R.G. Road, New Delhi 110001 Tel.: 23358379, 23358915 9868180524
Committee on Water Resources	Shri Beni Prasad Verma	3, Kushak Road, New Delhi 110003 Tel.: 23792660, 9868180834

Summary of Key Bills

Bills Introduced

The government introduced one Bill related to this sector in the Budget session of Parliament.

The Dam Safety Bill, 2010

The Dam Safety Bill, 2010 was introduced in the Lok Sabha on August 30, 2010 by the Minister of Parliamentary Affairs and Water Resources, Shri Pawan Kumar Bansal. The Bill was referred to the Standing Committee on Water Resources, which is scheduled to submit its report within three months.

- The Bill seeks to provide for the surveillance, inspection and operation of all dams of certain parameters to ensure their safe functioning.
- The law is applicable to Andhra Pradesh and West Bengal (and Union Territories) because their Legislatures passed a resolution for an Act of Parliament. It may apply to any other state if they pass a resolution on the matter.
- Every dam owned by a public sector undertaking or any institution owned by the government is within the scope of this law.
- A National Committee on Dam Safety is to be established with the Chairman, Central Water Commission as the Chairperson and at least 11 other specified members. It shall meet at least twice a year.
- The functions of the National Committee include (a) monitoring the functioning of state or non-state dam safety organisations; (b) evaluating dam safety procedures in various states and suggest ways to improve dam safety practices consistent with international practices and Indian conditions; (c) evolving a comprehensive dam safety management approach; and (d) advise on specific matters of dam safety to the central or state governments.
- The central government shall establish a Central Dam Safety Organisation within the Central Water Commission. Its functions include providing technical and managerial assistance to State Dam Safety Organisations (established by the state government); maintain a data-base of all specified dams including distress conditions; maintain records of major dam failures; and resolve disputes between state dam safety organisations.
- The states shall establish a State Committee on Dam Safety if they have more than 20 dams. The Committee shall review the work of the State Dam Safety Organisations, recommend measures for safety of a specified dam, and establish priorities among projects of remedial safety works.
- In states with less than 20 dams, there shall be a State Dam Safety Cell headed by a Superintendent Engineer. Every dam owner (other than central and state governments) owning more than 10 specified dams shall establish Non-State Dam Safety Organisation.
- In states without the state committees, the progress of work of the State Dam Safety Organisation shall be undertaken by the National Committee on Dam Safety through the Central Dam Safety Organisation.
- All these bodies at the state level shall keep perpetual vigilance, carry out routine inspections and monitor the operation and maintenance of all specified dams.
- All state governments and other owners shall earmark sufficient funds for maintenance and repair of specified dams.
- Every state government and owner of specified dam shall compile all technical documentations concerning hydrology, dam foundation, structural engineering of dam, and watershed upstream of dam.
- The qualifications of every individual responsible for dam safety shall be prescribed by the Central Dam Safety Organisation.
- All cost of investigation of a specified dam shall be borne by the owner.
- The construction of new dams or alterations shall be undertaken only with the approval of a competent authority as may be specified by the central or state government. All new specified dams shall be investigated, designed and constructed by the organizations empowered to do so.
- The Bill lays down the regulatory procedure to be followed before initial filling of reservoirs. Every owner has to get his dams inspected periodically and have a minimum number of instrumentations installed.
- Every owner of specified dams have to establish a disaster management plan and an emergency action plan. Every 10 years there has to be a comprehensive dam safety evaluation arranged by the state or non-state dam safety organisation or cell. The first one to be conducted within five years of the Act coming into force. The results shall be reported to the state government.

- Dam owners of non-specified dams shall undertake measures to ensure safety of the dams and comply with guidelines of state governments. The Bill also lays down measures of dam safety if they lie outside Indian territory.

Bills Passed

One Bill related to this sector was passed during the session.

The Essential Commodities (Amendment) Bill, 2010

The Essential Commodities (Amendment) Bill, 2010 was introduced in the Lok Sabha on August 9, 2010 by the Minister of Agriculture, Consumer Affairs, Food and Public Distribution, Shri Sharad Pawar. The Bill was passed by the Lok Sabha on August 17, 2010 and the Rajya Sabha on August 27, 2010.

- The Bill seeks to amend the Essential Commodities Act, 1955 to clarify the price payable for levy sugar (procured for public distribution system).
- The Principal Act was amended last in December 2009. That amendment had two main provisions.
 - ▲ It added an Explanation to Section 3 of the Principal Act, stating that the central government, while procuring levy sugar, would not pay any price in excess of that calculated on the basis of the Minimum Price (SMP) for sugarcane set by the central government. This Explanation comes into effect from 1974. The Supreme Court has ruled that the price of levy sugar should include the additional price as indicated in Section 5A of the Sugarcane Control Order, 1966 (known as the Bhargava formula) and the State Advisory Price (SAP) set by state governments. This amendment negated the judgement. This provision was brought into force with retrospective effect from October 1974, and valid until September 2009.
 - ▲ It also amended the price to be paid to sugar producers by the central government for procuring levy sugar. It specified that the price of sugar will be based on the “Fair and Remunerative Price” (FRP) fixed for sugarcane, and will include the manufacturing cost, duties, taxes and reasonable rate of return. Earlier the price was based on the Minimum Price (SMP) for sugarcane, and included the other costs and return. The FRP will be announced by the central government, similar to the earlier system of SMP.

The Amendment clarified that the central government would not pay any price in excess of that based on FRP for sugarcane. This came into force from October 2009.

- This Bill adds an explanation similar to the first provision described above. The second provision above provided that the price paid by the central government for levy sugar will be based on the FRP for sugarcane. The Bill clarifies that the FRP shall not include any price determined by any state government or through any agreement between the sugar producer and a cooperative of sugarcane growers.
- We describe below some of the ways in which the sugar sector is regulated.
 - ▲ Each sugar mill is allocated a command area in its vicinity (which usually varies from 15 km to 25 km radius, depending on the state). The mill is bound to purchase any sugarcane grown in that area. Sugarcane farmers are also expected to sell only to the designated mill.
 - ▲ The central government announces a price called the Statutory Minimum Price (SMP) for sugarcane, which is linked to several factors such as cost of growing cane, alternative crops, fair price of sugar and the yield of cane (sugar content). States also announce a price called the State Advisory Price (SAP), which is usually higher than the SMP. Cane mill pay the higher of SMP or SAP to farmers.
 - ▲ Sugar Mills are required to sell a part of their produce to the government. This is called levy sugar. The percentage was recently raised from 10% to 20% for the current sugar season (starting October 1, 2009). The price paid by the central government to the mills is based on SMP. Mills are free to sell the remaining sugar in the free market. However, the government announces monthly quotas to each mill, and thus controls the supply.

The Jharkhand Panchayat Raj (Amendment) Bill, 2010

The Jharkhand Panchayati Raj (Amendment) Bill, 2010 was introduced in the Lok Sabha by the Minister of Rural Development and Panchayati Raj, Shri C.P. Joshi. The Bill was passed in the Lok Sabha on August 17, 2010 and the Rajya Sabha on August 25, 2010.

- The Bill repeals the Jharkhand Panchayati Raj (Amendment) Ordinance, 2010.
- The Act provided for reservation for women in at least one-third of seats in each category: General,

Scheduled Castes, Scheduled Tribes and Other Backward Castes. This Bill raises this to half the seats. This is applicable to Gram Panchayats, Panchayat Samitis and Zila Parishads in both general and Scheduled areas.

- The Bill changes the provision regarding the reservation of posts of (a) Mukhia and Up-Mukhia, (b) Pramukh of the district and Up-Pramukh, (c) Adhyaksha and Upadhyaksha of Zila parishad.

General areas

- a. The posts of Mukhia, Pramukhs and Adhyakshas of the District shall be reserved for SCs and STs in proportion of their population.
- b. The posts shall be allotted by rotation.
- c. If the reserved seats are less than fifty percent, the remaining seats shall be reserved for OBCs to the extent of their proportion in the population (This provision will not be applicable for Adhyakshas).
- d. Out of the total reserved seats, fifty percent of the posts shall be reserved for women belonging to SC, ST and OBCs.

Scheduled areas - Not less than 50 percent of the total posts of Mukhia and Pramukh shall be reserved for women.

Both general and Scheduled areas - The post of (a) Up-Mukhia, (b) Up-Pramukh, and (c) Upadhyaksha shall be kept unreserved in both General and Scheduled areas.

- The Bill gives the State Election Commission powers to:
 - a. Initiate action on allegations of irregularities in Panchayat elections; and,
 - b. Appoint a General expenditure Observer in consultation with the State Government. The Observer shall supervise the entire election process and submit a report to the State Election Commission.

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Summary of Standing Committee Reports

The Constitution (One Hundred and Eleventh Amendment) Bill, 2009

- The Standing Committee on Agriculture (Chairperson: Shri Basudeb Acharya) tabled its 12th Report on 'The Constitution (One Hundred and Eleventh Amendment) Bill, 2009' on August 30, 2010. The Bill was introduced in the Lok Sabha on November 30, 2009.
- The Bill adds a new Directive Principles of State Policy stating that the "State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies." It further inserts a new part IX B in the Constitution (adding Articles 243ZH through 243ZT), which outlines certain guidelines for running co-operative societies.
- The Committee noted that the Bill had diluted the concept of autonomy of cooperatives by (a) including it in the Directive Principles of State Policy and (b) by taking away autonomy of cooperatives in an indirect manner.
- It recommended that the primacy of the concept of autonomy for co-operative societies be retained by making the right to form co-operative societies a Fundamental Right. The word "cooperative society" should be included in Article 19. A new provision should be added to Article 19 (to form and run co-operatives based on the principles of voluntary formation, democratic member control, member economic participation and autonomous functioning).
- The Committee is of the opinion that the proposed provisions of the Bill should not be included in the Constitution. It can be included as a separate Schedule under Article 19(1)(c).
- The Committee recommended that the definition of "cooperative society" should be modified to include important terms such as autonomous association of persons, common needs, jointly owned, and democratically controlled enterprise.
- Since cooperatives are member drive, the Committee stated that a definition of "active member" should be included in the Bill.
- The Committee recommended that a specialised agency on the lines of the Election Commission be set-up for the task of conducting elections in co-operatives.

- The Committee suggested that the government should supersede or suspend the Board of a co-operative society where it has more than 51% shares or given guarantees amounting to more than 51% of net worth of the cooperative. Also, this should be resorted to in an extreme case of financial irregularities. In addition, the period of supersession should be restricted to only three months.

The Constitution (One Hundred and Tenth Amendment) Bill, 2009

- The Standing Committee on Rural Development (Chairperson: Shrimati Sumitra Mahajan) tabled its 14th Report on 'The Constitution (One Hundred and Tenth Amendment) Bill, 2009' on July 28, 2010. The Bill was introduced in the Lok Sabha on November 26, 2009.
- Article 243D of the Constitution provides that a minimum of one-third of the total number of seats filled by direct elections in the Panchayats shall be reserved for women. The seats may be allotted by rotation to different constituencies in a Panchayat. The Bill seeks to amend the article to enhance the quantum of reservation for women from one-third to one-half of the total seats in the Panchayats. Similar reservation shall be provided among the total number of offices of Chairpersons.
- The Committee noted that the modalities of rotation of seats have been left to the states. Therefore, there is no uniformity. It recommended that there should be uniformity in the rules regarding rotation among states.
- The Committee recommended that the total number of seats reserved for the post of the Chairperson should be based on the total rural population of SC/STs.
- The Committee recommended that immediate steps need to be taken to effective implementation of all capacity building plans.
- The Committee suggested that the Panchayats may be advised to provide for honorarium and sitting fee for elected representatives out of the 'un-tied' Basic and Performance Grants recommended by the Thirteenth Finance Commission.
- The Committee proposed that the state governments should take effective steps to prevent proxy attendance in the meetings of panchayats. The government officer

who allows relatives to stand in should be proceeded against.

The Chemical Weapons Convention (Amendment) Bill, 2010

- The Standing Committee on Chemicals and Fertilizers (Chairperson: Shri Gopinath Munde) submitted its 9th Report on 'The Chemical Weapons Convention (Amendment) Bill, 2010 on August 3, 2010. The Bill was introduced in the Rajya Sabha on April 16, 2010.
- The Chemical Weapons Convention Act was enacted to give force to India's obligations under the Chemical Weapons Convention. The Convention bans the development, production, acquisition, transfer, use and stockpile of all chemical weapons. The Bill was introduced to (a) give the central government greater powers to appoint enforcement officers, (b) modify the process of transfer of chemical weapons to comply with the Convention, (c) modifies penalties for offences under the Act.
- The Committee agreed to the government's proposal to give the central government greater powers to appoint enforcement officers. The Committee recommended that eligibility criteria should be set by rules. The criteria should ensure that officers with

technical qualifications and relevant expertise would be appointed as enforcement officers. The Committee also recommended that officers should be given suitable training before their appointment.

- The Act prevents the transfer of specified chemicals to any person in a country which is not a party to the Convention. The Bill modifies this provision to prevent the transfer of chemicals to or from any party which is not a member of the Convention. The Committee recommended that the provision should clearly prohibit transfers to or from member countries as well as individuals who are not citizens of member countries.
- The Bill seeks to change the process of registration of manufacturers of specified chemicals. It gives the central government the power to make registration mandatory subject to certain threshold limits which may be prescribed. The Committee observed that this discretion given to the central government will result in making registration mandatory only for units covered in terms of threshold limits. The rest of the chemical industry would be free from the compulsion of registration. The government was asked to consider a two-step process of compulsory registration of all manufacturers, and subsequent declaration by those crossing the threshold limits.

Summary of Key Legislative News (July 27-September 14)

No agreement on price regulation and penalty clause in the Seeds Bill, Hindu, July 29

The government failed to reach an agreement with the Members of Parliament, who moved for amendments to the Seeds Bill on the issue of price regulation and penalty for failure of seeds. D.Raja from CPI(M) has asked for removing the distinction between major and minor offences.

Sonia's root concerns stay in new Seeds Bill, Asian Age, July 29

At a meeting convened by Sharad Pawar to evolve consensus on the proposed Seeds Bill, Andhra Agriculture Minister N Raghuvveera Reddy, accompanied by many Congress MPs, demanded setting up of a regulator "to fix prices and royalty, taking into account intellectual property rights".

Seeds Bill Is Put On Hold, Asian Age, July 29

The agriculture ministry has put on hold the controversial Seeds Bill, 2004, following strong objections from the MPs, mainly on the pricing and penalty clauses.

Comprehensive land acquisition bill soon: Govt, Economic Times, August 20

The government plans to formulating a comprehensive land acquisition bill that will address concerns about process of acquiring land for purposes such as setting up SEZs and compensation to be paid.

Parliament approves bill on Jharkhand panchayat polls, Sify News, August 25

Parliament Wednesday approved a bill on holding panchayat elections in Jharkhand, which is currently under president's rule, with the Rajya Sabha adopting the measure.

RLD chief proposes ban on land acquisition for profit ventures, Times of India, August 26

Rashtriya Lok Dal president Ajit Singh's draft for amendment in the Land Acquisition Act, 1894 proposes a complete ban on acquisition of land for profit-making and commercial purposes.

Dam Safety Bill, 2010 introduced in the Lok Sabha, Samachar Today, August 31

The Dam Safety Bill, 2010, which aims to establish an institutional system to regularly monitor the safety of large dams was introduced in the Lok Sabha.

Congress, Trinamool to cut a deal on land acquisition Bill, Business Standard, September 11

Finance Minister Pranab Mukherjee is likely to sit with Mamata Banerjee to iron out the differences on the land acquisition bill so that the government can table the bill during the winter session. While the Trinamool Congress is still against government role in land acquisition, it will focus on a better rehabilitation and resettlement policy in the proposed R&R bill for the displaced to break the logjam.

For fair land acquisition, Economic Times, September 11

The author argues that there is a need for proactive policy to rightfully compensate land-title holders and others dependent on the land. The land needs to be valued at the going market rates plus an attractive premium since under-reporting of transactions is routine.

Non-compliance of chemical Act to attract penal action: Govt, IBNLive, September 13

The Act seeks to regulate chemicals which can potentially be used to make weapons. Help desks have been set in Gujarat, besides Kolkata, Delhi and Maharashtra, to facilitate filing of declarations under the Act.

Of, for the farmer, Indian Express, September 13

A revised version of the Land Acquisition Bill is likely to contain provisions for payment of annuity to those dispossessed. The annuity provision has proved to be vital to the Haryana government's success in addressing the concerns of dispossessed landowners, who have a valid question about opportunity costs in taking compensation.

Sector 6: Security, Law and Strategic Affairs

	Chairperson	Contact Information
Committee on Defence	Shri Satpal Maharaj	2/12, Punjabi Bagh East, New Delhi 110026 Tel. : 9013180355
Committee on External Affairs	Shri Ananth Kumar	26, Tughlak Crescent, New Delhi 110011 Tel.: 23794754 Fax: 23012791
Committee on Home Affairs	Shri M. Venkaiah Naidu	30, Aurangzeb Road, New Delhi 110001 Tel.: 23019387, 23019388, 23015848, 9868181988
Committee on Personnel, Public Grievances, Law & Justice	Smt Jayanthi Natarajan	402, Brahmaputra, B.D. Marg, New Delhi 110001 Tel. : 23356888, 9868181899

Summary of Key Bills

Bills Introduced

The government introduced seven Bills in this sector during the Monsoon session.

The Public Interest Disclosure and Protection to Persons Making the Disclosures Bill, 2010

The Public Interest Disclosure and Protection to Persons Making the Disclosures Bill, 2010 was introduced in the Lok Sabha on August 26, 2010 by the Minister of State for Personnel, Public Grievance and Pensions, Shri Prithviraj Chavan.

- The Bill seeks to set up a mechanism to receive complaints of corruption or willful misuse of discretion against a public servant and provide safeguards against victimization of the person making the complaint.
- Any public servant or any other person including a non-governmental organization may make a public interest disclosure to a Competent Authority (Central or State Vigilance Commission).
- Each disclosure shall be accompanied by full particulars and supporting documents. The Competent Authority shall not take any action on a disclosure if the identity of the complainant is not included or is found to be false.
- “Disclosure” is defined as any complaint made in writing or electronic mail against a public servant on matters related to attempt to or commission of an offence under the Prevention of Corruption Act, 1988; willful misuse of power which leads to demonstrable loss to the government or gain to the public servant; attempt or commission of a criminal offence by a public servant.
- A “public servant” is any person who is an employee of the central government or the state government or any company or society owned or controlled by the central or state government.
- The Bill lays down the procedure of inquiry to be followed by the Competent Authority on receipt of a public interest disclosure. It is mandated to conceal the identity of the complainant unless the complainant has revealed his identity to any other authority.
- After conducting the inquiry, if the Competent Authority feels that the complaint is frivolous or there is no sufficient ground to proceed, it shall close the matter. If the inquiry substantiates allegation of

corruption or misuse of power, it shall recommend certain measures to the public authority (any body falling within the jurisdiction of the Competent Authority). Measures include initiating proceedings against the concerned public servant, taking steps to redress the loss to the government, and recommend criminal proceedings to appropriate authority.

- The Competent Authority shall not entertain any matter if it has been decided by a Court or Tribunal, if public inquiry has been ordered under the Public Servants (Inquiries) Act, 1850 or the Commissions of Inquiry Act, 1952 or the complaint is on an action that took place five years from the date of the complaint.
- The Bill exempts certain matters from disclosure if it is likely to affect the sovereignty of India, security of the state, friendly relations with foreign states, public order, decency or morality.
- Every public authority shall create a machinery to deal with inquiry into disclosures. The machinery shall be supervised by the Competent Authority.
- The Competent Authority may take the assistance of police authorities to make discreet inquiries or obtain information.
- The Bill creates certain safeguards against victimization of a complainant. There shall be no initiation of proceedings against such person merely on the grounds that the person has made a disclosure. The Competent Authority may give directions to a concerned public servant or authority to protect a complainant or witness either on an application by the complainant or based on its own information.
- The Competent Authority shall protect the identity of the complainant and the related documents, unless the Authority decides against it or is required by a court to do so.
- The Bill lays down penalties for various offences such as not furnishing reports to the Competent Authority, revealing identity of complainant, for false or frivolous disclosure, etc.
- Any person aggrieved by an order of the Competent Authority relating to imposition of penalty may file an appeal to the High Court within 60 days.

The Arms (Amendment) Bill, 2010

The Arms (Amendment) Bill, 2010 was introduced in the Lok Sabha on August 25, 2010 by the Minister of Home Affairs, Shri P. Chidambaram. The Bill was

referred to the Standing Committee on Home Affairs which is scheduled to submit its report within three months.

- The Bill amends the Arms Act, 1959, which regulates the acquisition and transfer of arms and ammunition.
- The Act requires a person to obtain a licence if he wants to acquire a firearm or ammunition. The procedure for obtaining such licence is laid down. On receiving an application, the licensing authority shall ask for a report from the nearest police station within a prescribed time. The Bill amends this provision to specify that the report has to be sent by the officer in charge of the nearest police station within 60 days and record reasons for failure to do so.
- The licensing authority may recommend to the concerned authorities, initiation of punitive action against any police officer if he fails to submit the report or the reasons for failure to do so are not convincing. It shall be seen as dereliction of duty under the applicable service rules.
- The Act allows the licensing authority to issue a licence if the police report does not reach him within the prescribed time. The Bill does away with this power of the licensing authority.

The Constitution (One Hundred and Fourteenth Amendment) Bill, 2010

The Constitution (One Hundred and Fourteenth Amendment) Bill, 2010 was introduced in the Lok Sabha on August 25, 2010 by the Minister of Law and Justice, Shri M. Veerappa Moily.

- The Bill seeks to amend Articles 217 and 224 of the Constitution relating to judges of the High Court.
- The Constitution allows every judge of a High Court including additional and acting judges to hold office till 62 years. The Bill increases the age limit to 65 years.

The Repatriation of Prisoners (Amendment) Bill, 2010

The Repatriation of Prisoners (Amendment) Bill, 2010 was introduced in the Lok Sabha on August 16, 2010 by the Minister of Home, Shri P. Chidambaram.

- The Bill seeks to amend the Repatriation of Prisoners Act, 2003 which allows transfer of prisoners from India to another country and vice versa.
- The Act allows a prisoner to apply for transfer. The application shall be considered by the central government. If the central government is satisfied that

the prisoner meets certain conditions, including the provision that the prisoner has not been convicted of martial law.

- The Bills amends the word “martial law” to “military law” since it is not relevant to India and was an oversight when the Act was passed.

The Marriage Laws (Amendment) Bill, 2010

The Marriage Laws (Amendment) Bill, 2010 was introduced in the Lok Sabha on August 4, 2010 by the Minister of Law and Justice, Shri M. Veerappa Moily. The Bill was referred to the Standing Committee on Personnel, Public Grievances, Law and Justice, which is scheduled to submit its report within two months.

- The Bill amends the Hindu Marriage Act, 1955 which codifies the law relating to marriage among Hindus and the Special Marriage Act, 1954 that provides for special form of marriage in certain cases.
- Both Acts allow a petition for grant of divorce on the ground of mutual consent. This petition has to be presented by both parties together before the court. The Bill deletes this requirement allowing one party to the marriage to present the petition.
- The Bill adds a provision to both Acts that allows both parties to file for divorce on the ground of irretrievable breakdown of marriage. Both parties have to live apart for at least three years before filing for such a petition.
- The wife has the right to oppose the grant of a divorce on the ground that the dissolution shall result in grave financial hardship. The court shall consider all circumstances including conduct of parties, children before deciding whether a divorce would result in hardship. Also, court has to be satisfied that adequate financial provision has been made for any children (including unmarried or widowed daughters).

The Enemy Property (Amendment and Validation) Bill, 2010

The Enemy Property (Amendment and Validation) Bill, 2010 was introduced in the Lok Sabha on August 2, 2010 by the Minister for Home Affairs Shri P. Chidambaram.

- The Bill seeks to amend the Enemy Property Act, 1968 and the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.
- An ordinance titled the Enemy Property (Amendment and Validation) Bill, 2010 was notified by the government on July 2, 2010. The Bill replaces the Ordinance.

- The Bill amends the provision declaring that all enemy property vested in the “custodian” of enemy property shall continue to vest in the custodian. The Bill states that the property shall continue to vest in the custodian irrespective of the death or extinction of the enemy. The custodian shall retain custody whether or not the heir of the enemy is an Indian citizen.
- The custodian can by order declare that such property vests in him and issue a certificate stating the same. The certificate shall be evidence of the property vesting in the custodian.
- The Act gives the central government the power to declare a transfer of enemy property void on certain grounds. The Bill states that the transfer of enemy property does not include: (i) a transfer made through oral will or gift, (ii) transfer made by concealment of enemy nationality, (iii) a transfer made without the permission of competent authorities such as the Reserve Bank of India if such permission is required, and (iv) without the permission of the custodian.
- The Bill makes certain additions to the power of the custodian. (a) The custodian can sell any immovable property vested in him. (b) On receiving the documents relating to the sale of the property, the custodian may issue a certificate of sale. The certificate of sale will be valid and conclusive proof of ownership of such property.
- The Bill bars courts from ordering the divestment of enemy property vested in the custodian. The court cannot direct the central government to divest such property from the custodian either. Courts can decide on the question whether the property in question is enemy property or not. They cannot however, direct the divestment of such property.
- The Bill states that the amendments made in the Bill shall be deemed to be applicable from the date of enactment of the Act.

The New Delhi Municipal Council (Amendment) Bill, 2010

The New Delhi Municipal Council (Amendment) Bill, 2010 was introduced in the Lok Sabha on August 3, 2010 by the Minister for Home Affairs Shri P. Chidambaram. The Bill was referred to the Standing Committee on Home Affairs on August 20, 2010, which is scheduled to submit its report within two months.

- The Bill seeks to amend the New Delhi Municipal Council Act, 1994 (Principal Act).
- The Principal Act established the New Delhi Municipal Council (NDMC). The Bill seeks to make certain changes to the composition of the Council. The

number of members of the Legislative Assembly shall be reduced from three to two. After delimitation, only two constituencies fall within the NDMC area. It also seeks to add the Member of Parliament representing the New Delhi area in the Lok Sabha in the Council with voting rights. Under the Principal Act, he was a special invitee to the Council without voting rights.

- The Bill increases the number of members to be nominated by the central government in consultation with the Chief Minister of Delhi from two to four in the Council. These members are chosen among lawyers, doctors, engineers, chartered accountants, artists, media persons etc.
- Out of the 13 members, at least three shall be women and two shall belong to the Scheduled Castes (one of whom shall be from the nominated members).
- The Bill also proposes to revise the procedure for presiding over the meetings of the Council. The Principal Act states that a meeting shall be presided over by the Chairperson or Vice Chairperson (appointed from among officers of the central government) or by such other members to be decided by the council in case both are absent. The Bill gives the order of preference in which a member shall act as the presiding officer in case both the Chairperson and the Vice Chairperson are absent.
- The order of preference is: (a) the Chief Minister of Delhi; (b) a Member of Parliament who is a Minister representing the New Delhi Area; (c) or a member of the Legislative Assembly who is a minister in the government of the National Capital Territory representing the New Delhi area; and (d) Member of Parliament who is not a Minister but represents the New Delhi area.
- In case all the four options are absent, the Council shall choose a member from among those present to preside over the meeting.

Bills Passed

In this session, Parliament passed seven Bills related to this sector.

The Nalanda University Bill, 2010

The Nalanda University Bill, 2010 was introduced in the Rajya Sabha on August 12, 2010 by the Minister of External Affairs, Shri S.M. Krishna. The Bill was passed by the Lok Sabha on August 26, 2010 and the Rajya Sabha on August 21, 2010.

- The Bill seeks to establish Nalanda University in Bihar as an international institution. The decision was arrived at the Second East Asia Summit in 2007 in Philippines about strengthening regional educational cooperation and later reiterated at the Fourth Summit in Thailand in 2009.
- The Bill declares the Nalanda University as an institution of national importance. It repeals the University of Nalanda Act, 2007. The jurisdiction of the university extends to the whole country.
- A governing board shall be constituted with a fixed term of three years for each member. Members include the Chancellor, the Vice Chancellor, five members among member states (member of East Asia Summit) who give maximum financial assistance, the Secretary in the Ministry of External Affairs, and two representatives of the government of Bihar. The process of appointment of the various authorities is specified in the Bill.
- The President of India shall be the Visitor of the university. He has the power to cause an inspection of the university.
- If the governing board does not take action to the satisfaction of the Visitor, he may issue such directions as he may see fit and the board is bound to comply with such directions. The Visitor also has the power to annul any proceeding of the university if it is not in conformity with the law.
- The governing board shall be responsible for managing the affairs of the university. Till the constitution of the board, the Nalanda Mentor Group shall exercise the powers of the board.
- The university shall be a non-profit public private partnership which shall be autonomous and accountable to the governing board.
- The key objectives of the university include (a) imparting education and enabling research in ancient science, philosophy, language, and history; (b) promoting regional peace by helping East Asian leaders relate to their past history; (c) harmonising academic standards and accreditation norms in teaching and research acceptable to all member states; and (d) understanding Buddha's teachings in the contemporary context.
- The university shall have the power to promote holistic and inclusive education; prescribe courses of study for degrees, diplomas and certificates; determine standards of admission and evaluation, set up a consortium of international partners to further its objectives; to generate resources through consultancy services, continuing educational programmes, collaborations and intellectual property rights; appoint faculty, to

establish and maintain centres; and to borrow with approval of the governing board.

- The Academic Council shall be the academic body of the university with the power to maintain standards of learning and evaluation. The university shall also have a number of Schools of Studies such as Buddhist Studies, Philosophy and Comparative Religions, Historical Studies, and International Studies and Peace Studies.
- The Bill specifies the service conditions of the employees and dispute resolution mechanism. It also specifies the procedure of appeal and arbitration in disciplinary cases against students.

The Representation of People (Amendment) Bill, 2010

The Representation of People (Amendment) Bill, 2010 was introduced in the Rajya Sabha on August 21, 2010 by the Minister of Law and Justice Shri M. Veerappa Moily. The Bill was passed by the Lok Sabha on August 31, 2010 and the Rajya Sabha on August 30, 2010.

- The Representation of the People Act, 1950 makes detailed provisions for elections and lays down the conditions required to register as a voter in a constituency. The conditions of registration include that a citizen should be "ordinarily resident" of a constituency.
- The Bill allows for all citizens to be enrolled in the electoral rolls in the constituency in which his place of residence in India as mentioned in his passport.
- The Electoral officer has to undertake the required verification for enrolment.
- The procedure for registration and the time period within which the registration shall take place is to be specified by the Government in consultation with the Election Commission.
- The Bill permits registration in electoral rolls of persons who are (a) citizens of India, (b) not enrolled in electoral rolls, (c) have not taken up the citizenship of any other country, and (d) are absent from the ordinary place of residence.

The Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 2010

The Salary, Allowances, and Pension of Members of Parliament (Amendment) Bill, 2010 was introduced in

the Lok Sabha on August 25, 2010 and was passed by the Lok Sabha on August 27, 2010 and the Rajya Sabha on August 31, 2010.

- The Act entitles an MP to receive a salary of Rs 16,000 per month for the whole term and an allowance of Rs 1,000 for each day of session provided he signs the register maintained by the Secretariat of the House. The Bill enhances the salary to Rs 50,000 and the allowance to Rs 2,000. These shall be applicable from May 18, 2009.
- The MP is entitled to a traveling allowance if he is traveling by road at the rate of Rs 13 per kilometer. The Bill increases it to Rs 16 per kilometer. The spouse of an MP shall also be allowed to avail this facility for a maximum of eight in a year subject to certain conditions.
- The Bill allows the spouse of an MP to travel from place of residence to Delhi any number of times by railway in first-class air conditioned or executive class. When Parliament is in session, the spouse can travel by air or partly by air not exceeding eight times a year.
- The Act entitles every MP to a pension of Rs 8,000 per month. If an MP has served more than five years, he shall be entitled to Rs 800 extra for every year he has served after the first five years. The Bill amends this amount of pension to Rs 20,000 and the extra entitlement to Rs 1,500.
- The Act allows an MP to take an advance of Rs 1 lakh to purchase a conveyance. The Bill increases this amount to Rs 4 lakh.

The Foreign Contribution (Regulation) Bill, 2006

The Foreign Contribution (Regulation) Bill, 2006 was introduced in the Rajya Sabha on December 18, 2006 by the Minister of Home Affairs Shri Shivraj Vishwanath Patil. The Bill was passed by the Lok Sabha on August 27, 2010 and the Rajya Sabha on August 19, 2010.

- The 1976 Foreign Contribution (Regulation) Act (FCRA) introduced a list of individuals prohibited from accepting any type of foreign contribution: (a) candidates for election, (b) correspondents, columnists, cartoonists, editors, owners, printers or publishers of a registered newspaper, (c) judges, government servants or employees of any public sector corporation, (d) members of any Legislature, and (e) political parties or their office-bearers. The new Bill maintains the previous list and adds two more groups: “organisations of political nature,” and any association or group engaged in the production or broadcast of audio or audio visual news or current affairs programmes through any electronic mode. The Bill also allows the

central government to add any person or organisation to this list. The Bill also prohibits any other individuals from accepting and transferring foreign funds to such groups. However, these persons may receive foreign contribution, for certain specified transactions such as salary, wages, international trade or from relatives.

- The central government can identify organisations as being of a “political nature” by publishing an order in the Official Gazette. The government must notify the identified organisation of such categorisation and the reasons for the same. That organisation has the right to make a representation to the central government within 30 days of the notification to challenge the classification.
- Both the 1976 Act and the new Bill require prior government permission for all members of legislatures, officer-bearers of political parties, judges, and government servants before accepting any foreign hospitality other than “a purely casual one”.
- The central government has the power to prohibit any persons or organisations from accepting foreign contribution or hospitality if it is determined that such acceptance would likely “affect prejudicially” (i) the sovereignty and integrity of India, (ii) public interest, (iii) freedom or fairness of election to any legislature, (iv) friendly relations with any foreign State, or (v) harmony between religious, racial, social, linguistic or regional groups, castes or communities.
- Foreign funds received as fees for service, costs incurred for goods or services in the ordinary course of business, and trade or commerce are excluded from the definition of foreign contribution.
- Funding from the United Nations, the World Bank and the International Monetary Fund is exempt from the requirements of the Bill. The central government can add other funders to this exemption list through notification.
- All persons or organisations who have a “definite cultural, economic, educational, religious or social programme” (unless otherwise specified in this Act) must obtain a certificate of registration from the central government in order to accept foreign contribution. In addition to associations, societies and other organisations, the new Bill is applicable for individuals, Hindu Undivided Families, and Section 25 Companies (not-for-profit companies).
- Under the new Bill, registration expires every five years, and must be renewed within six months before the expiry of the certificate. The central government may also prescribe an application fee.
- The Bill details additional requirements for registration including ensuring that the applicant: (i) is not fictitious, (ii) has not engaged in activities aimed at

forced or induced conversion from one religious faith to another, (iii) has not created communal tension, (iv) has not been found guilty of diversion of funds, (v) is not engaged in violent or seditious activities to achieve its ends, (vi) is not likely to use foreign contribution for “personal gains or divert it for undesirable purposes”, (vii) has not contravened any of the provisions of the Act and the FCRA certification is not currently suspended or cancelled within the last three years, (viii) has not been prohibited from accepting foreign contribution, (ix) has used the funds for the intended purpose, (x) and no one involved in the organisation has been convicted under any law in force.

- In the case of rejection of certification, the central government must record the reasons and provide a copy to the application giving information to the extent as specified necessary by the Right to Information Act, 2005.
- The central government may also suspend for 180 days or cancel certificates of registration to receive foreign contribution in cases of false statements in applicant registration or renewal, violation of FCRA certification or the FCRA Act, or if the central government thinks it is in the public interest to do so.
- The Bill clarifies that income or interest from FCRA funds is considered foreign contribution.
- The Bill prohibits the transferring of foreign contribution by a registered organisation to an unregistered one.
- The Bill introduces a cap of 50% of foreign funds for administrative expenses. The government will define what constitutes administrative expenses. This cap may be exceeded with prior permission.
- The Bill specifies that foreign contribution may not be used for “speculative business.”
- As in the 1976 Act, registered associations may only receive foreign contribution in a single account of a specified bank branch. The Bill permits opening multiple bank accounts for utilising the foreign contribution.
- Banks must report to the government the amount of foreign remittance, the source and manner in which the foreign remittance was received and any other particulars. As in the 1976 Act, registered individuals and groups must also provide the central government with such financial information.
- Every candidate for election who has received any foreign contribution 180 days before his nomination must provide the details to the central government.
- The central government may authorize a Group A post gazetted officer or “any other officer or authority or organization as it deems fit” to conduct an audit of

accounts of any political party, person, organization, or association. The official has full rights to enter any premises to conduct such an audit, between sunrise and sunset.

- The Bill allows any authorised official to search and seize any accounts should he suspect the organisation to be in violation of this Act, and provides a procedure for the seizure and disposal, if necessary of such articles, currency or security. The Bill gives persons the right to appeal such a confiscation in certain circumstances.
- Any person who violates this Act either through false statement, fraudulent registration, or violates any prohibitive order is punishable with imprisonment of up to three years and/or a fine. Anybody who accepts or assists any person, political party or organisation in accepting illegal foreign contribution may be punished by imprisonment of up to five years and/or a fine. Should an article, currency or security not be available for confiscation, a court can impose a fine of up to five times the value of the article or Rs 1,000 (whichever is higher). For any other violation, punishment can consist of imprisonment of up to one year.

The Code of Criminal Procedure (Amendment) Bill, 2010

The Code of Criminal Procedure (Amendment) Bill, 2010 was introduced in the Lok Sabha on March 15, 2010 by the Minister of Home, Shri P. Chidambaram. The Bill was passed by the Lok Sabha on August 12, 2010 and the Rajya Sabha on August 27, 2010.

- The Bill seeks to amend the Code of Criminal Procedure Act, 1973. The Act allows any police officer to arrest a person without an order of a Magistrate and a warrant in certain specified circumstances.
- The Act requires police officers to state the reasons in writing for arrest in case of offences punishable with imprisonment up to seven years and the police officer is satisfied that such arrest is necessary to prevent further offences or for proper investigation. The Bill states that if police officers are not required to arrest under the provisions of the Act, they have to record the reason in writing for not making the arrest.
- The Act states that instead of arresting a person, the police officer may issue a “notice of appearance” to the person requiring him to present himself as specified in the notice. The Bill makes it mandatory for police officers to issue a notice in all cases where arrest is not required. It also states if a person refuses to comply with the terms of the notice or is unwilling to identify

himself, the police officer may arrest him for the offence mentioned in the notice.

The Personal Laws (Amendment) Bill, 2010

The Personal Laws (Amendment) Bill, 2010 was introduced in the Rajya Sabha on April 22, 2010 by the Minister of Law and Justice, Shri Veerappa Moily. The Bill was passed by the Lok Sabha on August 21, 2010 and by the Rajya Sabha on August 17, 2010.

- The Bill seeks to amend the Guardians and Wards Act, 1890 and the Hindu Adoptions and Maintenance Act, 1956.
- The Bill amends the 1890 Act to include the mother along with father as a fit person to be appointed as a guardian of a minor.
- The Bill amends the 1956 Act to allow any Hindu female who is not a minor and is of sound mind to adopt a son or a daughter. A woman whose husband is living and is of sound mind will also need the consent of the husband to adopt. Both father and mother have equal right to give up a child for adoption but they need the consent of each other unless one of them is of unsound mind or has renounced the world or is no more a Hindu.

The Land Ports Authority of India Bill, 2009

The Land Ports Authority of India Bill, 2009 was introduced in the Lok Sabha on August 7, 2009 by the Minister of Home Affairs, Shri P. Chidambaram. The Bill was passed by the Lok Sabha on May 6, 2010 and the Rajya Sabha on August 19, 2010.

- The central government shall constitute the Land Ports Authority of India, which shall have the power to manage facilities for cross-border movement of passengers and goods at designated points along the international land border of India. The Authority shall be composed of a Chairperson and members from the government and representatives of traders and workers.

- The Authority may (a) maintain or construct roads, terminals and ancillary buildings other than national or state highways and railways, at an integrated check post (as notified by the central government); (b) procure and maintain communication, security and goods handling equipment; (c) provide appropriate space for various services such as immigration, customs, security, and taxation authorities; (d) construct residential buildings for its employees; and (e) establish and maintain hotels, restrooms, warehouses, and container depots.
- The Authority may seek the assistance of armed forces, central para military force or state police to ensure peace and security at an integrated check post.
- The customs, immigration, quarantine and other officials shall co-ordinate with the Authority to discharge their duties effectively.
- Any land needed by the Authority shall be deemed to be needed for a public purpose. The Authority has the power to enter any contract necessary for executing its duties. The Bill makes provisions for the mode of executing contracts on behalf of the Authority.
- The Authority may charge such fees and rent as provided by regulations. It shall establish its own funds where all receipts shall be credited. It may also establish a reserve fund for the purpose of expanding existing facilities or creating new facilities at any integrated check post.
- The Bill makes provisions for submission of the Authority's programme of activities and financial estimates to the central government. It also makes it mandatory for the Authority to maintain accounts which shall be audited annually.
- If the central government approves, the Authority may borrow money from any source by issuing bonds and debentures. The central government may guarantee the repayment of the principal and the payment of interest on the loan taken by the Authority.

Summary of Key Legislative News (July 27-September 14)

[Commercial Courts bill to be tabled in session: Veerappa Moily](#), DNA, August 1

According to Veerappa Moily, the Commercial Division of High Courts Bill, 2009, under which special courts are contemplated for speedy hearing of commercial disputes of Rs 5 crore and above, would be tabled in the Monsoon session of the Parliament.

[Khurshid leads team to PC, says consult all](#), Indian Express, August 10

The Enemy Property (Amendment and Validation) Bill 2010 essentially aims at preventing Indian citizens, whose family members migrated to Pakistan at the time of Partition, from going to court seeking possession of the property of their forefathers. The government decided to put the Bill on hold following opposition from several quarters.

[Govt softens on enemy property, to amend Bill](#), Hindustan Times, August 14

The government has agreed to amend the Enemy Property (Amendment and Validation) Bill 2010 to restore interests of genuine legal heirs who have inherited properties taken over by the state under the Enemy Property Act of 1968. This Bill is put in place to replace the Enemy Property ordinance.

[Enemy property Bill only for the rich?](#), Pioneer, August 16

This report analyzes the Enemy Property (Amendment & Validation) Bill. The author feels that the popular perception looks at it as an attempt to sway the crucial Muslim vote in the State of Uttar Pradesh which has 1500 of the 2100 enemy properties. He also looks at the role of protecting Raja Mehmoodabad's as another aspect of the story.

[Personal Law Bill To Be Amended](#), The Asian Age, August 18

The Rajya Sabha passed the Personal Laws (Amendment) Bill, 2010. The bill allows the mother along with the father to be appointed as a natural guardian and also aims at removing hurdles in the way of a married woman to adopt.

[Enemy Property Bill seeks to stop indiscriminate purchases](#), Times of India, August 19

The amendments to the Enemy Property Bill will empower the government to prevent indiscriminate purchase and sale of 'enemy properties' across the country but it will not stop rightful owners i.e. legal heirs, from claiming their property.

[Deadlock over MPs' salary hike ends after govt 'assurance'](#), Times of India, August 21

The government assured agitating MPs that their concerns on salary hike would be addressed, a day after several opposition parties conducted a 'mock' Parliament.

[Give MPs salary in accordance with performance](#), Economic Times, August 22

The author argues that while the salary of MPs is indeed low compared to that of bureaucrats or elected representatives of other countries, there should be a mechanism to measure their performance also.

Government to press ahead with 'Enemy Property' amendment, Hindu August 25

The government wants to press ahead with the Enemy Property (Amendment & Validation) Bill. The new version will permit Indian-born legal heirs to claim such properties if they establish their status. There are still certain limitations in the bill and the BJP has said that it will oppose it in the current form.

Bill introduced in Lok Sabha to amend Arms Act, Times of India, August 26

In an effort to create a database of arms' owners in the country and ensure weapons did not land in individual hands without verification, the government introduced a Bill to amend the Arms Act, 1959. The Bill also seeks to ensure that arms licences are issued to the bona-fide persons by the licensing authority concerned after due verifications.

Bill to hike MPs salaries tabled in Lok Sabha, Hindu, August 26

The Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 2010 proposes a salary hike for members of Parliament from Rs. 16,000 to Rs. 50,000 and doubles their key allowances to Rs. 40,000. The Bill was tabled in the Lok Sabha.

Last chance to fix flawed torture Bill, Hindu, August 26

The column argues that the Prevention of Torture Bill, 2010 which was passed by the Lok Sabha is very weak and the Rajya Sabha needs to amend certain provisions. These included changing of the definition of torture to harmonize it with Convention against Torture, no time limit to file a torture complaint and a written statement by the government if it feels that the public servant is not to be prosecuted.

Lok Sabha passes MPs' salary hike bill, NDTV, August 27

The bill to hike salaries of the MPs by over three times from Rs. 16,000 to Rs. 50,000, and doubling two of their key allowances to Rs. 40,000 each was passed in Lok Sabha. During the debate on the Bill a strong demand was made for setting up an independent body to decide on their future pay.

PAR passes bill for providing voting rights to NRI's, Economic Times, August 31

The Representation of People (Amendment) Bill, 2010 was passed by both Houses of Parliament. The Bill aimed to allow those Indians, who had gone abroad for employment or education but had not obtained citizenship, to get registered in the electoral rolls and vote in election to legislatures and Parliament.

NRI voting bill passed in Rajya Sabha, Times of India, August 31

Rajya Sabha passed a bill providing voting rights to Non-Resident Indians. The bill entitles Indians, who have not acquired the citizenship of any other country but stay abroad, to have their names registered in electoral rolls.

RS refers torture bill to Select Committee, Times of India, August 31

The Rajya Sabha referred the Prevention of Torture Bill, 2010 to a Select Committee. The Bill, which has already been passed in the Lok Sabha, provides upto ten years of imprisonment to public servants responsible for torturing any person to elicit information or other purposes.

MPs' salary hike: Do they have a case?, AOL News, August 31

The author examines the debate on the hike in salaries of the members of Parliament. The three main issues being – that the MPs decide their own salary, adverse media reaction to any hike in salary and the confusion between 'allowances and reimbursements'.

Torture Bill is a travesty, Hindu, August 31

The author critically analyses the Prevention of Torture Bill and gives the view that it will make the elimination of torture and the punishment of its practitioners more difficult than it is under existing law.

Torture Bill passed, BJP, Left oppose, Economic Times, September 1

Caught in a tussle between BJP and the Left, the Prevention of Torture Bill was referred to a select committee of Parliament. The Bill was passed in the Lok Sabha without discussion.

RS refers torture Bill to select committee, Times of India, September 1

Human rights groups have pointed out a series of problems about the Prevention of Torture Bill and expect that the select committee of Parliament, to which it has been referred to, makes the legislation in sync with the United National Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

No differences in UPA on Enemy Property Bill: Chidambaram, Indian Express, September 2

Union Home Minister P Chidambaram said the decision on the official amendments to the Enemy Property Bill was taken after consulting both Congress and the UPA constituents. He added that there is no difference between the constituent parties and the government on the official amendments.

Ashwani Kumar to head select panel to examine Torture Bill, Times of India, September 4

Rajya Sabha chairperson Hamid Ansari appointed Ashwani Kumar of the Congress as chairman of the 13-member Select Committee of the Rajya Sabha on The Prevention and Torture Bill, 2010.