Jharkhand HC Stays on Private Sector Job Quota Law

For Prelims: **Article 14** , **Article 19**, **Article 16**, **Article 371D**, **Article 15**, **Supreme Court of India**

For Mains: Domicile Reservation in India, Socio-economic and Legal Implications of Reservation Policies, Unemployment

Source: TH

Why in News?

The **Jharkhand High Court** has stayed the implementation of the **Jharkhand State Employment of Local Candidates in Private Sector Company Act, 2021**, which mandated a **75% reservation for local candidates in private-sector jobs** with salaries up to Rs 40,000.

- This law, introduced to boost **employment for locals** but faced criticism for violating constitutional principles.

What is the Jharkhand HC Ruling on Private Sector Job Quota Law?

- **Petition by Small-Scale Industries: The Jharkhand Small Scale Industries Association (JSSIA) filed a petition challenging the 75% local quota law, arguing that it violates the principle of equality, and the freedom to conduct business.**
    - The advocates representing JSSIA contended that the Act unfairly creates a division between local and non-local candidates, restricting employers' ability to hire freely.
    - The petition referenced the **Punjab and Haryana High Court quashed the Haryana State Employment of Local Candidates Act, 2020,** which was struck down by the Punjab and Haryana High Court for **violating constitutional rights.**
- **Jharkhand HC Ruling: The Jharkhand HC stayed the Jharkhand State Employment of Local Candidates in Private Sector Company Act, 2021 implementation.**
    - The court found merit in the JSSIA's argument that the law violates **Article 14 Right to Equality,** by discriminating against non-local candidates. And the **Article 19(1)(g) freedom to conduct business,** by restricting private companies' hiring choices.

Similar Domicile Based Reservation Laws in Other States

- **Andhra Pradesh: Passed the Andhra Pradesh Employment of Local Candidates in Industries/Factories Act, 2019 (reserves 75% of jobs in private industries for local residents).**
    - The Andhra Pradesh High Court noted the law **"may be unconstitutional"** but has yet to deliver a final judgment.
- **Karnataka:** Approved the Karnataka State Employment of Local Candidates in Industries, Factories and Other Establishments Bill, 2024, which proposes 50% reservation for locals in management roles and 75% in non-management positions across various sectors.
    - The bill has sparked uproar, with concerns raised about its impact on labor mobility and business operations.

Why Do States Introduce Domicile Based Reservations in Private Employment?

- **High Unemployment Among Locals: In many states, locals face significant job shortages, especially for low and semi-skilled positions.**
    - Local quota laws are seen as a way to ensure residents have better access to employment opportunities.
- **Migrant Workers Taking Jobs:** There is a growing perception that migrant workers from other states are taking away jobs meant for locals.
    - This often **fuels resentment,** especially in more industrialized and economically advanced regions.
- **State Employment Prioritisation:** The private sector, as a **major job creator,** can support **social justice by prioritizing locals for jobs,** especially since it benefits from government incentives like **tax concessions and cheaper loans**, justifying affirmative policies.
- **Political Pressure and Vote Banks: State governments face pressure from local populations to prioritise their interests. Introducing reservation laws can be a way to appease voter sentiment and secure political support.**
- **Skill Mismatch and Education Levels:** Locals may lack the skills for high-paying jobs, limiting their opportunities.
    - Quotas for lower-paying roles are introduced to address this skill mismatch and provide more employment for less-educated populations.
- **Retention of Talent:** By ensuring that local residents have access to jobs, states can **retain talent within the region.** This is particularly important in areas experiencing **brain drain,** where skilled workers leave for better opportunities elsewhere.

What is Domicile Reservation?

- **Domicile Reservation:** This system reserves benefits based on where a person resides. States may allocate certain seats for residents, prioritizing locals in areas like education and public jobs.
    - **"Place of birth" and "domicile" are distinct concepts,** with domicile referring to a person's residence rather than their birthplace.
- **Constitutional Provisions:** Article 16(3), **allows residence-based criteria for government appointments within a state or union territory, as determined by Parliament.**
    - **Article 371D** creates **local cadres in Andhra Pradesh and Telangana,** ensuring local representation and opportunities in government jobs.
    - Article 15 **only prohibits discrimination based on birthplace, not residence.**
- **Landmark Judgments:**
    - ***DP Joshi vs Madhya Bharat, 1955:*** Supreme Court (SC) of India upheld the validity of domicile-based reservations, stating that it is a legitimate state interest to benefit its own residents.
    - ***Dr. Pradeep Jain v. Union of India, 1984*:** The SC again upheld domicile-based reservation, emphasizing that it falls within the scope of reasonable classification under Article 14, as long as it does not violate the principles of equality or hamper the rights of others.
- **Problems with Domicile Reservation:** Domicile-based quotas can **compromise merit-based selection,** potentially leading to **underperformance in critical sectors**.
    - Emphasis on regional identity may **foster division and exacerbate local tensions,** undermining national integration.
    - Migrants who may have contributed significantly to the economy and society **may be unfairly denied opportunities.**
    - The criteria for domicile may be manipulated, **leading to exploitation and favoritism** in the allocation of reserved seats or positions.
    - Continuous reliance on reservations may **weaken efforts to improve the quality of education and skill development,** which are more sustainable solutions for empowerment.
    - Domicile reservations may fail to **address intra-regional disparities,** where **wealthier or more educated local residents benefit over poorer,** marginalized groups within

the same region.

Way Forward

- **Balance of Employment:** Establish a **fair mechanism where both local and non-local candidates can compete for jobs**, promoting merit-based hiring while addressing regional unemployment issues.
  - Policies should focus on workforce integration, ensuring equal access to economic opportunities for all citizens, regardless of state boundaries.
- **Focus on Skill Development: Invest in education and skill development programs for locals to make them more competitive in the job market, reducing the need for restrictive quotas.**
- **Incentivise Local Businesses:** Encourage private-sector companies to **prioritize local hiring through incentives like tax breaks or subsidies,** rather than imposing rigid reservation quotas, fostering an environment where **employers choose based on merit and local talent.**
- **Ensuring Labor Rights:** States should enforce basic labor rights for all workers, including migrants, to ensure fair wages and social protections, creating a level playing field for both local and migrant workers.

Drishti Mains Question:

Q. Analyze the impact of domicile-based reservation laws in India. Do these laws address regional unemployment, or do they create new challenges?"

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Prelims

Q. Disguised unemployment generally means (2013)

(a) large number of people remain unemployed
(b) alternative employment is not available
(c) marginal productivity of labour is zero
(d) productivity of workers is low

Ans: (c)

Mains

Q. Most of the unemployment in India is structural in nature. Examine the methodology adopted to compute unemployment in the country and suggest improvements. **(2023)**

India Surpasses USD 1 Trillion in FDI

For Prelims: **Foreign Direct Investment**, **World Competitive Index**, **Global Innovation Index**, **Angel tax**, **Make in India initiative**, **Production Linked Incentive Scheme**, **Department for Promotion of Industry and Internal Trade**

For Mains: India’s Foreign Direct Investment (FDI), FDI’s role in the development

[Source: PIB](#)

Why in News?

India has surpassed **USD 1 trillion in Foreign Direct Investment (FDI) inflows since 2000,** highlighting its growing appeal as a global investment hub.

- This milestone is further supported by a **26% rise in FDI to USD 42.1 billion in the first half of the current financial year 2024-25,** reflecting the impact of strategic initiatives, policy reforms, and enhanced global competitiveness.

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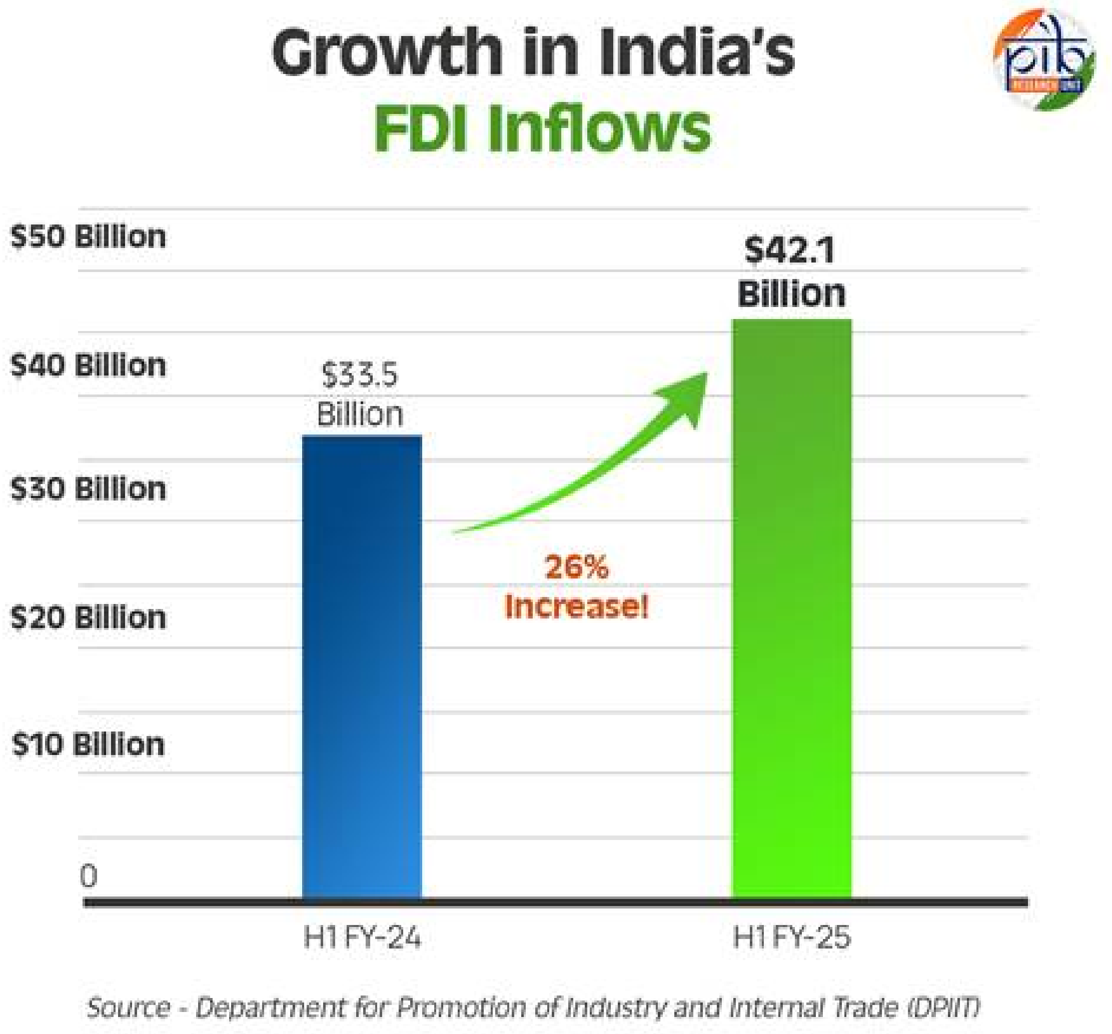


What Factors are Driving India's FDI Growth?

- **Competitiveness and Innovation:** India's **World Competitive Index 2024** ranking improved to 40th from 43rd in 2021.
    - In the **Global Innovation Index 2023,** India secured **40th place** out of 132 economies, a significant rise from 81st in 2015.
    - **Progress in innovation and competitiveness** has positioned India as a global hub for innovation-driven investment.
- **Global Investment Standing:** India ranked 3rd globally for **greenfield projects** with 1,008 announcements (World Investment Report 2023).
    - International project finance deals in India also increased by **64% making it the**

        - **recipient of the second-largest** number of international finance deals.
        - These figures highlight India's growing global investment prominence.
- **Improved Business Environment:** India improved its business environment significantly, rising from **142nd in 2014 to 63rd in the 2020 World Bank Doing Business Report.**
    - This reflects efforts to simplify regulations, and reduced bureaucratic hurdles have boosted investor confidence.
- **Policy Reforms:** The **2024 amendment to the Income Tax Act, 1961** abolished **angel tax** and **reduced the income tax rate for foreign companies** to simplify compliance for startups and investors.
- **Initiatives to Boost FDI:**
    - **Bilateral Investment Treaty (BIT) with UAE**: The signing of a **BIT with the UAE** aims to increase investor confidence and stimulate investments aligned with the **'Atmanirbhar Bharat' vision.**
    - **Production Linked Incentive (PLI) Scheme**: The **PLI scheme** supports manufacturing sectors, driving FDI in the white goods sector.
    - **Make in India Initiative**: Between 2014-2022, the **Make in India initiative** boosted FDI in the manufacturing sector by 57%.
    - **Foreign Investment Facilitation Portal (FIFP)**: The **FIFP** streamlines the FDI approval process by offering a **single interface for investors,** speeding up approvals and facilitating smoother foreign investment inflows.
    - **PM Gati Shakti**: Measures like **PM Gati Shakti** aim to further boost FDI by improving infrastructure, and connectivity.
    - **Key Sectors with FDI Liberalization:** India has made significant strides in liberalizing FDI across multiple sectors to attract global investments.
        - The **space sector allows 100% FDI**, the **Defence sector has raised its FDI cap to 74%** through the automatic route and 100% via government approval.
        - The **pharmaceutical sector permits 74% FDI in Brownfield projects,** and **civil aviation allows 100% FDI in brownfield airport projects.**
        - Retail, insurance, and telecom sectors have also seen increased FDI limits, with significant reforms aimed at enhancing infrastructure and boosting exports.
        - The textile sector benefits from the **National Technical Textiles scheme** and PLI initiatives, further promoting FDI.

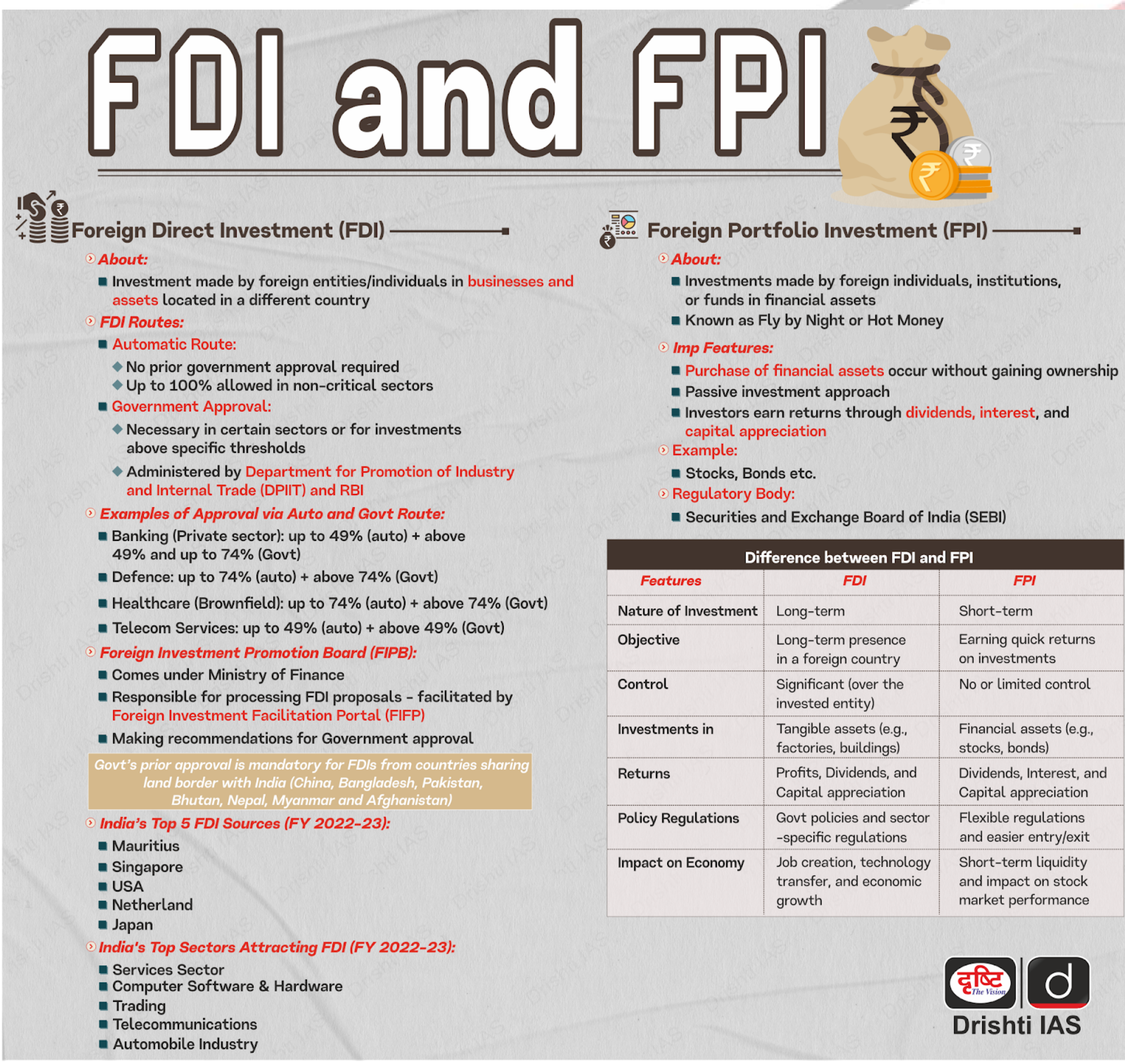
What is Foreign Direct Investment?

- **About:** FDI refers to an investment where a company or individual from **one country makes an investment in a business** or establishes a controlling interest in a business **in another country.**
    - This involves more than just capital, it also brings in **expertise, technology, and skills,** which can contribute to the economic development of the host country.
- **Types of FDI:**
    - **Greenfield Investment:** Creating new business operations from the ground up, offering high control and customization.
    - **Brownfield Investment:** Expanding through mergers, acquisitions, or joint ventures by utilizing existing facilities.
        - The **control may not be as high as in Greenfield investments,** as the organisation is leveraging existing structures, but still allows significant influence over the operation.
- **FDI in India:**
    - **Governance:** FDI in India is governed by the **Foreign Exchange Management Act (FEMA), 1999,** and is administered by the **Department for Promotion of Industry and Internal Trade (DPIIT),** under the **Ministry of Commerce and Industry.**
    - **FDI Entry Routes:** FDI under sectors is permitted either through the **Automatic route or Government route.**
        - Under the Automatic Route, the non-resident or Indian company **does not require any approval from the Government of India.**
        - Whereas, under the Government route, **approval from the Government of India is required prior to investment.**
            - Proposals for foreign investment under the Government route are

considered by the respective Administrative Ministry/Department.
    - **Sectors Under the Automatic Route:** Agriculture & Animal Husbandry, Air-Transport Services, Auto-components, Automobiles, Biotechnology (Greenfield), E-commerce Activities, Renewable Energy, and various other sectors
    - **Sectors Under the Government Route:** Banking & Public Sector, Broadcasting Content Services, Food Products Retail Trading, Satellite Establishment and Operations.
    - **FDI Prohibition in India:** FDI is strictly prohibited in sectors like **atomic energy generation, gambling and betting, lotteries, chit funds, real estate, and the tobacco industry.**
    - **India's Top FDI Sources:** India received the highest FDI from Singapore in 2023-24, followed by Mauritius, United States, Netherlands and Japan.

Note: In order **to curb opportunistic takeovers/acquisitions** of Indian companies due to the **Covid-19** pandemic, Government **amended the FDI policy 2017 vide Press Note 3 (2020).**

- It required entities from **countries sharing a land border with India**, or whose beneficial owner is from such countries, **can only invest in India through the Government route.**
- For the purpose of Press Note 3, **India recognises Pakistan, Afghanistan, Nepal, Bhutan, China (including Hong Kong), Bangladesh and Myanmar as countries sharing land border with India (Bordering Countries).**



What is the Significance of FDI?

- **Employment and Economic Growth:** FDI stimulates **job creation,** reduces **unemployment,** and enhances income levels, contributing to overall economic growth.
    - FDI infuses capital, increasing tax revenue, and improving infrastructure.
    - For instance, the entry of global companies like **Amazon and Walmart (through Flipkart)** has created numerous jobs in the retail and logistics sectors.
- **Human Resource Development:** Exposure to **global skills and technologies** improves workforce quality, benefiting the wider economy.
    - For example, the establishment companies like IBM and Microsoft in India have enhanced the **skill set of the local workforce.**
- **Development of Backward Areas:** FDI helps transform underdeveloped regions into industrial hubs, driving regional economic progress.
    - The automobile hub in TamilNadu, with investments from companies like Hyundai and Ford, has significantly boosted the local economy.
- **Increase in Exports:** FDI may lead to the establishment of **export-oriented units,** enhancing a **country's export potential.**
    - For example, India's IT sector, which receives significant FDI from companies like Accenture, has become a major industry, exporting software services to clients worldwide.
- **Exchange Rate Stability:** Continuous FDI inflows provide **foreign exchange, supporting currency stability**.
    - The steady inflow of FDI in key sectors like **telecommunications and pharmaceuticals** helps maintain a stable exchange rate.
- **Creation of a Competitive Market:** FDI fosters competition, drives innovation, and offers consumers a broader range of products at competitive prices.
    - The entry of **global brands like IKEA** has increased competition in the retail sector, benefiting consumers.

What are the Concerns Regarding the FDI?

- **National Security:** FDI in strategic sectors, such as defence or telecommunications, can pose national security risks.
    - For example, concerns have been raised about **Chinese investments in critical infrastructure in various countries.**
- **Economic Dependence:** Heavy reliance on FDI can make a **country vulnerable to economic fluctuations** in the investing country.
    - This can **lead to instability** if the foreign investor decides to withdraw or reduce their investment.
    - This is a concern in **sectors like banking, where foreign entities might prioritize their interests over national ones**.
- **Profit Repatriation:** Foreign companies often **repatriate profits back to their home countries,** which can limit the economic benefits for the host country. This can result in a net outflow of capital.
- **Impact on Local Businesses:** Large foreign companies **can outcompete local businesses**, leading to closures and job losses.
    - This is particularly concerning in developing economies where local businesses may not have the resources to compete.
- **Environmental Concerns:** Foreign investments, especially in extractive industries, can lead to **environmental degradation.**
    - There have been instances where foreign companies like PepsiCo have been accused of **not adhering to local environmental regulations.**
- **Labor Exploitation:** There are concerns that foreign companies might exploit **local labor by paying lower wages or not adhering to labor laws.** This can lead to poor working conditions and social unrest.

Way Forward

- **Enhance Ease of Doing Business:** Continue simplifying FDI regulations, reducing bureaucratic hurdles, and streamlining approval processes to attract more foreign investors.

- **Sustainability Focus:** Encouraging FDI in **green and sustainable technologies** to align with global environmental goals.
    - Ensuring stable and transparent policies will build investor confidence and encourage sustained FDI inflows.
- **Skilling and Employment:** Ensure that the **FDI contributes to local employment and skill development,** particularly in manufacturing and technology sectors.
- **Investment in R&D and Innovation:** Promote **FDI in research and development** to foster innovation and enhance India’s global competitiveness.
- **Infrastructure Development:** Investing in infrastructure, including digital and physical assets, can enhance India's attractiveness as an investment destination.
- **Sector-Specific Reforms:** Implement targeted reforms in high-potential sectors like defence, space, and renewable energy to encourage innovation and investment.

Conclusion

India’s FDI inflows, surpassing USD 1 trillion since 2000, reflect its growing global competitiveness and successful reforms. Initiatives like "Make in India" and sectoral liberalization position India for continued sustainable growth and development on the global stage.

Drishti Mains Question:

Analyze the role of Foreign Direct Investment (FDI) in India’s competitiveness and innovation ecosystem. How do improvements in global competitiveness affect FDI?

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Prelims

Q. With reference to Foreign Direct Investment in India, which one of the following is considered its major characteristic? (2020)

(a) It is the investment through capital instruments essentially in a listed company.

(b) It is a largely non-debt creating capital flow.

(c) It is the investment which involves debt-servicing.

(d) It is the investment made by foreign institutional investors in Government securities.

Ans: (b)

Q. Consider the following: (2021)

1. Foreign currency convertible bonds
2. Foreign institutional investment with certain conditions
3. Global depository receipts
4. Non-resident external deposits

Which of the above can be included in Foreign Direct Investments?

(a) 1, 2 and 3
(b) 3 only
(c) 2 and 4
(d) 1 and 4

Ans: (a)

Mains

Q. Justify the need for FDI for the development of the Indian economy. Why is there a gap between MOUs signed and actual FDIs? Suggest remedial steps to be taken for increasing actual FDIs in India. **(2016)**

Reimposition of Protected Area Regime

Source: TH

Why in News?

The Union Home Ministry has reimposed the **Protected Area Regime (PAR) in Manipur, Mizoram, and Nagaland** due to rising security concerns **over foreign influx from neighboring countries.**

- The decision highlights the government's renewed focus on **monitoring foreign movements** and addressing security issues in these sensitive regions.

What is the Protected Area Regime?

- **About:** The PAR is a set of regulations established under the **Foreigners (Protected Areas) Order, 1958,** which is aimed at **regulating foreign visitors to areas that are considered strategically important** or vulnerable to external threats, particularly in the **northeastern states** and other border regions of India.
- **Key Features of the PAR:**
    - **Restricted Access:** Foreigners are not allowed to visit areas under the PAR without prior government approval.
        - To enter these areas, they must apply for and obtain a **Protected Area Permit (PAP),** which allows authorities to monitor the movement of foreign nationals in sensitive regions.
        - The areas covered by the PAR are deemed sensitive due to their proximity to international borders or because of ethnic tensions, insurgency, or political instability.
    - **Relaxations and Reimposition:** In the past, there have been temporary relaxations to **encourage tourism in some regions,** like in Manipur, Mizoram, and Nagaland, where the PAR was relaxed in 2010 for promoting tourism.
        - However, such relaxations were reversed when security concerns arose, as seen with the recent reimposition of the PAR in these states.

Foreigners (Protected Areas) Order, 1958

- The Foreigners (Protected Areas) Order, 1958, issued under the **Foreigners Act, 1946,** is a key regulatory framework designed to **control the movement of foreigners in sensitive regions of India.**
- It defines the **'Inner Line',** a boundary from Jammu and Kashmir to Mizoram, beyond which foreign travelers are required to obtain a special permit.
    - The regions located between the **Inner Line and the International Border of a state are known as Protected Areas.**
        - Foreigners can enter these areas only with a PAP. Examples of Protected Areas include the whole of Arunachal Pradesh, Manipur, Mizoram, Nagaland, and Sikkim (which is partly in Protected Areas and partly in Restricted Areas).
            - Additionally, parts of Himachal Pradesh, Jammu & Kashmir, Rajasthan, and Uttarakhand are designated as Protected Areas.

- The **areas that lie between the Inner Line and the territories occupied by indigenous tribes are known as Restricted Areas.** Entry into these regions is prohibited without prior permission **(Restricted Area Permit)**.
  - Examples of Restricted Areas include the entire Andaman and Nicobar Islands Union Territory and a part of the state of Sikkim.
