

# Overview

## Legislative Proposals in Higher Education

### Highlights

- ◆ The government has introduced four Bills related to higher education. In addition, it is planning to draft a Bill that proposes to have a single regulator for the higher education sector.
- ◆ In this note, we present an overview of the major challenges faced by the sector, the recommendations of the committees and the proposed regulatory structure. Please see our Legislative Briefs for a detailed discussion on the Bills.
- ◆ Presently, higher education is regulated by the University Grants Commission (UGC) and 14 professional councils such as the All India Council of Technical Education (AICTE) and the Medical Council of India (MCI). Two recent committees on higher education recommended structural changes.
- ◆ Statutory authorities such as UGC and AICTE shall set standards and regulate all higher educational institutions, including foreign educational institutions.
- ◆ The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 seeks to allow foreign institutions to set up campuses in India without an Indian partner subject to specific conditions such as maintenance of a corpus fund.
- ◆ The National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010 seeks to set up a mechanism to accredit all higher educational institutions. This would ensure that students have access to information about the quality of an educational institution and each course offered by them.
- ◆ The Educational Tribunals Bill, 2010 seeks to set up national and state level tribunals. Disputes related to higher educational institutions and students or the faculty and institutions and statutory authorities shall be adjudicated by these tribunals.
- ◆ The Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010 seeks to penalise unfair practices of private educational institutions. Unfair practices include charging of capitation fees, not giving receipts for payments made, and publishing false or misleading advertisement.

#### Related Legislative Briefs:

The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010

The National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010

The Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities, 2010

The Educational Tribunals Bill, 2010

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## CONTEXT

### Present Regulatory Structure

Education is listed in the Concurrent List of the Constitution. Therefore, both the centre and the states can make laws with regard to education. In addition, the centre can determine standards for higher educational institutions while the states can incorporate, regulate and wind up universities.<sup>1</sup>

Higher education is regulated by multiple authorities. The University Grants Commission (UGC) regulates universities and colleges teaching general subjects. It has the power to determine and maintain standards and disburse grants. Technical education is regulated by the All India Council for Technical Education (AICTE). Technical institutions can provide degree programmes if they are affiliated with a university (this condition is waived for some institutions). Affiliation is not required if the institution runs only diploma programmes.<sup>2</sup> The Central Advisory Board of Education (CABE) co-ordinates between the centre and the states.<sup>3</sup>

#### Key Indicators on Higher Education

Estimated population in 18-23 age group: 12.6 crore  
 Gross Enrolment Ratio: 12.6%  
 Enrolment in colleges and universities (2009-10): 1.36 crore  
 Higher Education expenditure (as % of GDP): 0.7%  
 11th Plan Outlay for Higher Education: Rs 84,943 crore  
 Sources: National Level Educational Statistics (2005-06);  
 Annual Report of HRD Ministry 2009-10; National Sample Survey (2004-05).

**Table 1: Regulatory structure of Higher Education**

Type of institutions	Number (As on Dec 31, 2009)	Structure of Regulation
Universities	336	Set up by Act of Parliament or State legislatures (can be public or private).
Deemed to be universities	130	Central govt grants status on recommendation from UGC. Have autonomy to set their own syllabus, admission criteria and fees.
Colleges	25,951	Affiliation to a public university is mandatory. Can be aided, unaided or autonomous.
Institutes of National Importance	33	Status granted by an Act of Parliament (IITs, NITs etc). Can award degrees without affiliating with a university.
Technical education (central govt funded; state govt funded; and self-financed institutions)	-	AICTE can approve setting up of new institutions and introduction of new courses. It includes engineering, technology, management, architecture, town planning and pharmacy.
Institutions offering medical, legal, dental, nursing, pharmacy, teacher education.	-	Regulated by 13 professional councils such as the Medical Council of India, Bar Council of India, and Dental Council of India who can recognise courses and promote the institutions.

Sources: University Grants Commission Act, 1956; The All India Council for Technical Education Act, 1987, Institutes of National Importance; Annual Report:2009-10, Ministry of Human Resource Development; "Professional Councils" in the UGC website.

## Challenges

### Access

India's Gross Enrolment Ratio (GER) in higher education is about 12.6%.<sup>4</sup> Other countries such as the USA (81%), UK (54%), Japan (49%) and Malaysia (27%) have much higher enrolment rates.<sup>5</sup> There are high disparities within the country too. The GER for the urban population is almost 20% but for rural areas it is only 6%. Also, the GER for SC/ST/OBC varies between 6-8%.<sup>6</sup> The CABE report<sup>7</sup> stated that at least 20% enrolment ratio was required for India to become an economically advanced country. Access is also limited in terms of number of available seats in universities.<sup>8</sup> According to a study sponsored by UGC, 735 additional universities and 2692 additional colleges (general education) would be required to achieve 15% GER by 2012.<sup>8</sup>

### Quality

No Indian university is listed in the top 100 universities in the world and only two are listed in the top 200.<sup>9</sup> In 2009, a review committee set up by the Ministry of HRD found 88 of the 130 deemed universities to be of poor quality and identified problems such as control of management boards by nominees of the sponsoring trust or government functionaries, low quality of research, and improper practices in admission process.<sup>10</sup> In 2005, the Supreme Court struck down a law in Chhattisgarh which allowed the state government to establish universities through a notification. Universities had been set up without adhering to UGC norms of infrastructure, teaching facility, financial resources and teaching standards.<sup>11</sup>

Various other committees and experts have identified causes for low quality of higher education. These include lack of quality faculty at university level, low quality of research and pedagogical innovation, lack of accountability and incentives among teachers, system of evaluation which encourages rote learning, governance structures of universities which make innovations difficult, system of affiliated colleges.<sup>12</sup> The size of a university is crucial in order to achieve efficiency in use of resources, enhance quality and monitor colleges.<sup>8</sup>

**Governance and management**

India’s National Policy on Education, 1986 emphasised the need for decentralisation, autonomy of educational institutions and the principle of accountability in managing educational institutions. However, the implantation fell short of the desired goals and principles. The regulatory bodies have cumbersome procedure for granting recognition and there is large scale corruption.<sup>13</sup> Some issues that need to be resolved to promote autonomy, accountability and transparency are: government intervention, the large size of university councils, high entry barriers for new universities and the system of affiliated colleges.<sup>5</sup>

**Funding**

Universities in India face financial constraints. Only 0.7%<sup>5</sup> of India’s GDP is spent on higher education, which is lower than countries such as the US (2.9%)<sup>14</sup>, UK (1.3%)<sup>14</sup> and China (1.5%)<sup>15</sup>. In general, about 75% of maintenance expenditure is spent on salaries and pensions, and 15% is absorbed by claims such as rents, electricity, telephones and examinations.<sup>5</sup> Experts have suggested strategies to mobilise financing: raise public spending, allocate 25% of state budget on education for higher education, provide a mix of different types of grants, increase fees for richer students combined with easy student loans, encourage philanthropic contribution, allow universities to invest in financial instruments, and tap sources such as alumni contributions.<sup>16</sup>

**PROPOSED REFORMS IN HIGHER EDUCATION**

**Recommendation of NKC and Yashpal Committee**

Recently, two high level committees were set up to suggest ways to revamp the higher education sector. The National Knowledge Commission submitted its report in March 2009 and the Yash Pal Committee submitted its report in June 2009. The main recommendations of the committees are summarised below.

National Knowledge Commission	Yash Pal Committee
<b>Regulatory structure</b>	
<ul style="list-style-type: none"> <li>▪ Establish an Independent Regulatory Authority for Higher Education (IRAHE) through an Act of Parliament to set standards and determine eligibility criteria for new institutions.</li> <li>▪ It shall also settle disputes and licence accreditation agencies (both public and private).</li> <li>▪ UGC shall only disburse public funds. Abolish all professional bodies except the MCI and BCI who shall provide licences to those wishing to enter the profession.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Establish a National Commission of Higher Education and Research (NCHER) through a Constitutional Amendment, to replace UGC, AICTE, NCTE and DEC.</li> <li>▪ Professional bodies such as MCI and BCI should conduct qualifying examinations.</li> <li>▪ NCHER shall create norms for accreditation and certify accrediting agencies, independent of the government.</li> <li>▪ Constitute a National Education Tribunal to adjudicate disputes.</li> </ul>
<b>Access</b>	
<ul style="list-style-type: none"> <li>▪ Expand the number of universities to 1,500 by establishing 50 National Universities and giving autonomy to individual colleges or clusters of colleges, with proven track record.</li> <li>▪ Give admission without taking into account a student’s ability to pay. Have a National Scholarship Scheme and allow institutions to set their own fees if at least two banks are willing to give a loan without any collateral.</li> <li>▪ Address disparities of income, gender, region by creating deprivation index.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Regulatory mechanism should make rational and consistent rules for setting up institutions (both public and private). Education should be made affordable either through scholarships or loans.</li> <li>▪ Allow only the top foreign universities to establish campuses.</li> <li>▪ The best colleges should be upgraded to university status. A number of colleges can be clubbed into clusters and be recognised as universities.</li> </ul>
<b>Quality</b>	
<ul style="list-style-type: none"> <li>▪ Existing universities: revise curricula, follow course credit system, promote research, performance incentives to faculty.</li> <li>▪ Colleges: Replace affiliation system with autonomy to top colleges, remodel some into community colleges, and establish a Central Board of Undergraduate Education.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Allow institutions to set their own targets and achieve those in a specified time frame. Reform the curricula based on principles of mobility and academic depth. Universities should have rich undergraduate programmes.</li> <li>▪ Optimise size of state universities.</li> </ul>

- Make disclosure norms for institutions stringent, including their accreditation level.
- Enhance quality through competition by allowing foreign institutions to operate in India.
- All private institutions have to be mandatorily accredited.
- Granting of deemed university status should be put on hold.
- Competitive remuneration and improved infrastructure is required. Student feedback should be taken to identify poor performers.

**Governance**

- Governance structures should preserve autonomy and ensure accountability of universities. Vice Chancellors should be appointed through a search process and peer judgement alone.
- The large size and composition of university courts, academic councils and executive are impediments. Decisions should be taken by standing committees of academic councils.
- Address the problem of politicisation of universities.
- Governance structure should preserve the autonomy of universities. Need to develop expertise in educational management and separate it from academic administration.
- Need for exclusion of politicians and limited representation of government in governance structures.
- Teachers should have autonomy to frame their courses and assess the students.

**Funding**

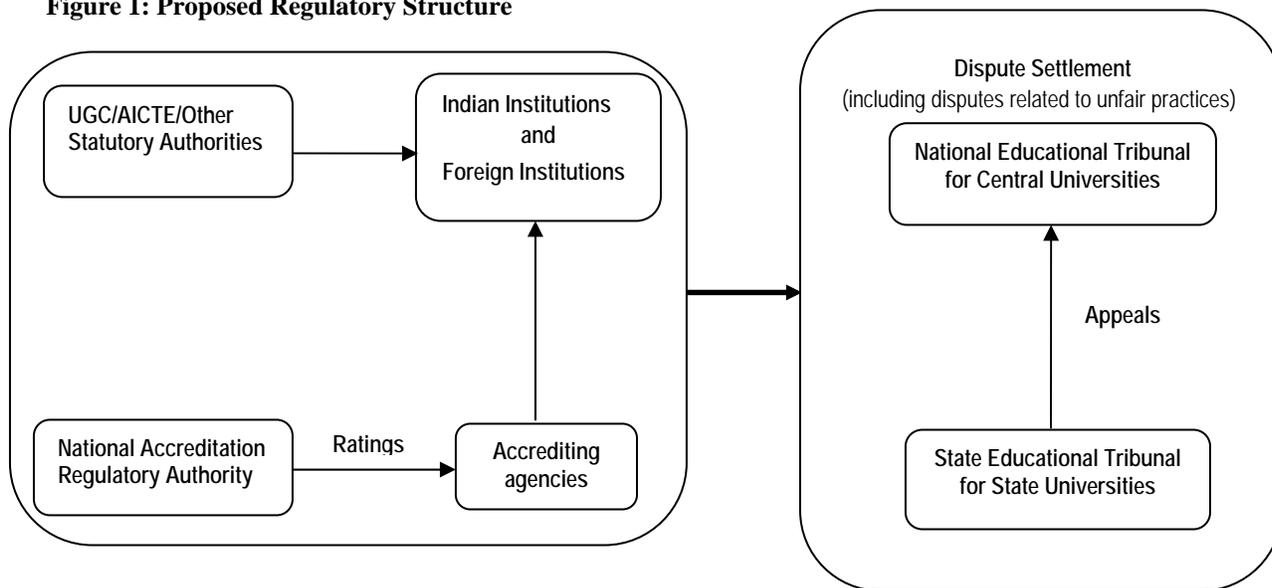
- Government funding should be 1.5% of GDP by 2012. Asset of universities such as land should be managed for revenue.
- Rationalise fees by requiring it to meet at least 20% of the total expenditure. UGC's grants-in-aid should not be reduced and needy students should have fees waived plus scholarships.
- Encourage philanthropic contributions through incentives for universities and donors. Allow private investment in universities. Public-private partnerships to set up universities.
- Make efforts to attract international students.
- Need to find complementary sources of funding, including encouraging philanthropy. Alumni should be tapped as a source.
- Universities should hire professional fund raisers to attract funding from non-government sources.
- Give government funds as a block grant based on a plan.
- Guaranteed students loans for students who can pay and free education for poor students should be implemented.

Sources: "Report to the Nation: 2006-2009," National Knowledge Commission; Report of 'The Committee to Advise on Renovation and Rejuvenation of Higher Education' Prof Yash Pal, 2009; PRS.

**Proposed Regulatory Structure**

The regulatory structure proposed by the four Bills is as follows: The statutory authorities such as UGC and AICTE shall set standards and regulate all higher educational institutions, including foreign educational institutions. The statutory authorities shall also set benchmarks for accreditation of all institutions. The National Accreditation Regulatory Authority shall licence agencies for accrediting institutions. Disputes between institutions and students or faculty shall be resolved through educational tribunals. Unfair practices such as capitation fees, donations, and false advertisements shall be penalised.

**Figure 1: Proposed Regulatory Structure**



## Notes

1. **Union List:** Institutions of National Importance declared through Acts of Parliament (Entries 63, 64); institutions for professional, vocational or technical training or for the promotion of special studies or research or for scientific assistance in detection of crime (Entry 65); Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions (Entry 66).

**State List:** Incorporation, regulation and winding up of universities (Entry 32);

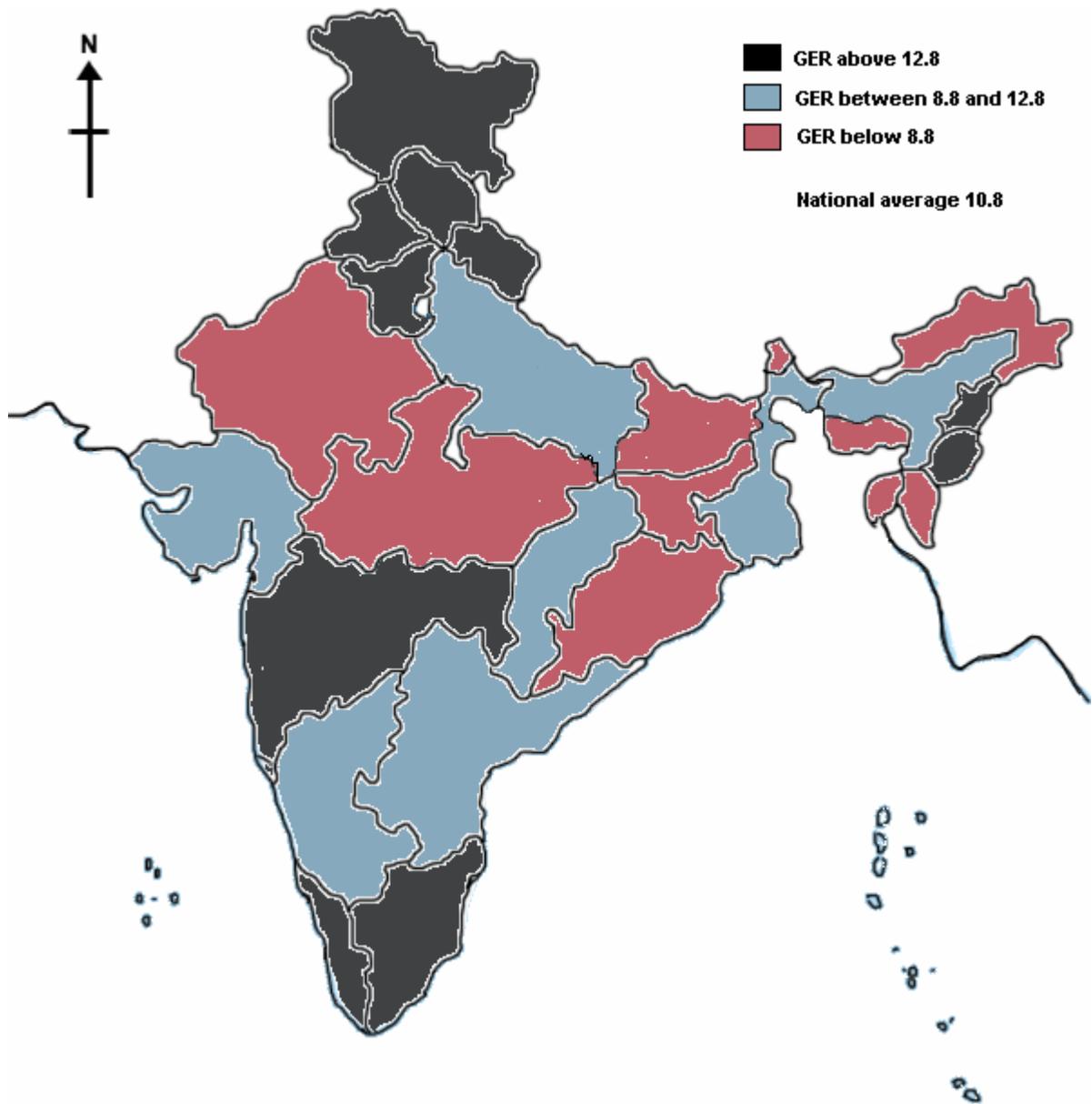
**Concurrent List:** Education, including technical education, medical education and universities, subject to the provisions of List 1; vocational and technical training of labour (Entry 25).

2. The University Grants Commission Act, 1956 and The All India Council for Technical Education Act, 1987.
3. "General Overview: Education Sector," National Portal of India (see <http://india.gov.in>).
4. National Sample Survey, 2004-05.
5. "Report to the Nation: 2006-2009," National Knowledge Commission.
6. "Education" in the Eleventh Five Year Plan.
7. Report of the CABE Committee on Financing of Higher and Technical Education, June 2005.
8. "Universities and Colleges Requirement for 15% Target during 11<sup>th</sup> Plan: An Estimate," Sudhanshu Bhushan, Chapter 2 in *Higher Education in India: Issues related to Expansion, Inclusiveness, Quality and Finance*, UGC, Nov 2008.
9. Times Higher Education-QS World University Rankings, 2009 (see <http://www.timeshighereducation.co.uk/hybrid.asp?typeCode=438>)
10. Report of the Committee for Review of Existing Institutions Deemed to be Universities," Chairperson: Prof P.N. Tandon, Oct 19, 2009.
11. Writ Petition (C) No. 19 of 2004 (Prof Yash Pal vs State of Chhattisgarh & Ors).
12. "Report to the Nation: 2006-2009," National Knowledge Commission; Report of 'The Committee to Advise on Renovation and Rejuvenation of Higher Education' Prof Yash Pal, 2009; Dissent Note of Prof Kaushik Basu in Yash Pal Committee Report; 172<sup>nd</sup> Report on University and Higher Education, Department related standing Committee on Human Resource Development, May 22, 2006; "Regulating Higher Education," Pratap Bhanu Mehta, Indian Express, July 14, 2005; "How to Build Quality Institutions," Pratap Bhanu Mehta, Indian Express, July 16, 2005; Panagariya, Arvind, *India: The Emerging Giant*, Oxford University Press, USA, March 2008.
13. 172<sup>nd</sup> Report on University and Higher Education, Department related standing Committee on Human Resource Development, May 22, 2006; Report of the Committee for Review of Existing Institutions Deemed to be Universities," Chairperson: Prof P.N. Tandon, Oct 19, 2009.
14. Indicator 38: Education Expenditures by Country in "The Condition of Education 2010," National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education. Washington, DC.
15. China Statistical Yearbook: 1999-2007.
16. Report of the CABE Committee on Financing of Higher and Technical Education, June 2005; "Report to the Nation: 2006-2009," National Knowledge Commission; "Financing Requirements in Higher Education during XI Plan Period," Sudhanshu Bhushan, Chapter 10 in *Higher Education in India: Issues related to Expansion, Inclusiveness, Quality and Finance*, UGC, Nov 2008.

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## Gross Enrolment Ratio (GER) of States (2004-05)



Source: Thorat, Sukhdeo, "Emerging Issues in Higher Education – Approach and Strategy of 11<sup>th</sup> Plan," in *Higher Education in India: Issues Related to Expansion, Inclusiveness, Quality and Finance*, UGC, Nov 2008, pp 26.