



PARLIAMENT OF INDIA RAJYA SABHA

238

**DEPARTMENT-RELATED PARLIAMENTARY STANDING
COMMITTEE ON HUMAN RESOURCE DEVELOPMENT**

TWO HUNDRED THIRTY-EIGHTH REPORT

ON

**THE NATIONAL ACCREDITATION REGULATORY AUTHORITY
FOR HIGHER EDUCATIONAL INSTITUTIONS BILL, 2010**

(PRESENTED TO THE RAJYA SABHA ON 12th AUGUST, 2011)
(LAID ON THE TABLE OF LOK SABHA ON 12th AUGUST, 2011)

**RAJYA SABHA SECRETARIAT
NEW DELHI**

AUGUST 2011/ SRAVANA, 1933 (SAKA)

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**COMPOSITION OF THE COMMITTEE ON HRD
(2010-11)**

RAJYA SABHA

1. Shri Oscar Fernandes — *Chairman*
2. Shrimati Mohsina Kidwai
3. Dr. K. Keshava Rao
4. Shri Prakash Javadekar
5. Shri M. Rama Jois
6. Shri Pramod Kureel
7. Shri N.K. Singh
8. Shrimati Kanimozhi
9. Dr. Janardhan Waghmare
10. Shri N. Balaganga

LOK SABHA

11. Shri Kirti Azad
12. Shri P.K. Biju
13. Shri Jeetendra Singh Bundela
14. Shri Angadi Suresh Chanabasappa
15. Shrimati J. Helen Davidson
16. Shri P.C. Gaddigoudar
17. Shri Rahul Gandhi
18. Shri Deepender Singh Hooda
19. Shri Prataprao Ganpatrao Jadhao
20. Shri Suresh Kalmadi
21. Shri P. Kumar
22. Shri Prasanta Kumar Majumdar
23. Capt. Jai Narain Prasad Nishad
24. Shri Sheesh Ram Ola
25. Shri Tapas Paul
26. Shri Brijbhushan Sharan Singh
27. Shri Ashok Tanwar
28. Shri Joseph Toppo
29. Dr. Vinay Kumar Pandey 'Vinnu'
30. Shri P. Viswanathan
31. Shri Madhu Goud Yaskhi

SECRETARIAT

Smt. Vandana Garg, Additional Secretary
Shri N.S. Walia, Director
Shri Arun Sharma, Joint Director
Shri Sanjay Singh, Assistant Director
Smt. Himanshi Arya, Committee Officer
Smt. Harshita Shankar, Committee Officer

PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Human Resource Development, having been authorized by the Committee, present this Two Hundred and Thirty-eighth Report of the Committee on the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010 *.

2. The National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010 was introduced in the Lok Sabha on 3 May, 2010. In pursuance of Rule 270 relating to Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha in consultation with the Speaker, Lok Sabha referred** the Bill to the Committee on 13 May, 2010 for examination and report.

3. The Committee held extensive deliberations with both Government and Private Sector Stakeholders, which included, Chairman UGC, AICTE, Vice-Chancellor, IGNOU, Chairman, National Board of Accreditation, Director, National Assessment and Accreditation Council, Chairman, Board of Governors, MCI, Education Promotion Society for India, Indian Council of Universities and Prof. K.K.Aggarwal, Chancellor, Lingaya's University in addition to the Department of Higher Education and the Ministry of Health and Family Welfare.

4. The Committee considered the Bill in six sittings held on 20 April, 19 May, 20 & 28 June, 22 July and 8 August, 2011.

5. The Committee, while drafting the Report, relied on the following:-

- (i) Background Note on the Bill and Note on the clauses of the Bill received from the Department of Higher Education;
- (ii) Presentation made and clarifications given by the Secretary, Department of Higher Education;
- (iii) Feedback received from the Department on the questionnaire and the memoranda of the stakeholders along with the issues raised by the Members during the course of the oral evidence of the Secretary; and
- (iv) Replies to the questionnaire and feedback received from the stakeholders heard by the Committee.

6. The Committee considered the Draft Report on the Bill and adopted the same in its meeting held on 8 August, 2011.

7. One note of dissent given by Shri Pramod Kureel is appended to the Report.

8. For facility of reference, observations and recommendations of the Committee have been printed in bold letters at the end of the Report.

NEW DELHI;
August 8, 2011
Sravana 10, 1933 (Saka)

OSCAR FERNANDES
Chairman,
Department-related Parliamentary
Standing Committee on Human Resource Development.
(ii)

* Published in Gazette of India Extraordinary Part II Section 2 dated 3rd May, 2010

** Rajya Sabha Parliamentary Bulletin Part II No. 47228 dated 13th May, 2010

REPORT

I INTRODUCTION

1.1 The National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010 was referred to the Department-related Parliamentary Standing Committee on Human Resource Development by the Chairman, Rajya Sabha, in consultation with the Speaker, Lok Sabha on 13 May, 2010 for examination and report.

1.2 The National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010 seeks to make provisions for assessment of academic quality of higher educational institutions, programmes conducted therein and their infrastructure through mandatory accreditation by independent accreditation agencies and to establish a statutory Authority for the said purpose and to provide for matters connected therewith or incidental thereto.

1.3 The Statement of Objects and Reasons to the Bill reads as follows:-

“Assessment and accreditation in the higher education, through transparent and informed external review process, are the effective means of quality assurance in higher education to provide a common frame of reference for students and others to obtain credible information on academic quality across institutions thereby assisting student mobility across institutions, domestic as well as international. Presently, accreditation is voluntary as a result of which less than one-fifth of the colleges and less than one-third of all universities have obtained accreditation. Mandatory accreditation in the higher education would enable the higher education system in the country to become a part of the global quality assurance system.

Mandatory accreditation in the higher education would require a large number of competent and reliable accrediting agencies to be recognized, monitored and audited for academic competence through an independent but accountable institutional mechanism. Such a mechanism would find acceptability among peer group of international accreditation bodies, necessary for student and teacher mobility and institutional collaborations, within and across borders. Consequently, there is need for an autonomous institutional structure with statutory backing to recognize and regulate competent professional agencies charged with the task of accreditation.”

II CONSULTATION PROCESS

2.1 As the proposed legislation sought to cover all categories of higher educational institutions across the country, the Committee wanted to be enlightened about the consultation process undertaken by the Department. The Committee was informed that views of the State Governments had been taken into account while finalizing the proposal. The Department stated that the matter was discussed in a meeting of the Central Advisory Body on Education (CABE), the highest policy advisory body on education, held on 31 August, 2009 in which State Education Ministers also participated. The proposal was circulated in advance to the States for the meeting of the CABE. CABE approved the proposal for mandatory accreditation in higher education with the rider that the proposed law should take into consideration the concerns expressed by some States with regard to the autonomy of the process of accreditation. It was clarified that the intention of the proposal was not only to protect the autonomy of States but also to ensure accountability of the accreditation process. The process of accreditation as envisaged did not in any way come into conflict with either the federal structure of Indian polity or the autonomy of the institutions established by the States. It was further informed that almost all the States had expressed their support for the need to have accreditation, with the State Governments of Chattisgarh, Madhya Pradesh, Tamil Nadu, Himachal Pradesh and Gujarat separately welcoming the proposal. On a specific query about concerns expressed by some States, the Committee was apprised that the State Governments of West Bengal and Kerala had expressed some reservations about the outsourcing/privatization of agencies for accreditation which would not improve the quality of our education system. View of the State Government of Odisha was that before having mandatory accreditation, standards should be achieved for which support for colleges and universities would be required.

2.2 When asked about the response of the Central Universities/Deemed Universities/premier institutions which are mandated to undergo accreditation under the proposed legislation, reply of the Department was:-

“The UGC has informed that it has not currently approached institutions on the subject. However, UGC had, in the past made accreditation mandatory and had accordingly written to all the universities to go for accreditation by 31/12/2000,

duly extending the deadline twice. In its 462nd meeting held in 2009, the UGC had approved the draft UGC (Mandatory Assessment and Accreditation of Higher Educational Institutions) Regulations, 2009 which was an attempt to ensure that maximum number of universities apply for accreditation.”

2.3 On being enquired about the views of private universities/institutions and State universities/institutions on the issue of proposed mandatory accreditation, Committee's attention was once again drawn to the fact that the UGC had not reported any reservation when it had proposed a regulation for mandatory accreditation. It was also expected that institutions providing high quality of higher education would welcome such a move as it would help in differentiating their quality vis-à-vis other types of institutions.

2.4 Lastly, inspite of medical institutions proposed to be brought under the Bill, involvement of Ministry of Health and Family Welfare in the consultation process was restricted to the Minister of Health being the Member of the GoM which approved the draft of the Bill for Government. Further, no separate consultations were held with MCI, DCI, Nursing Council etc. due to these bodies coming within the purview of the Ministry of Health and Family Welfare. It was also clarified that statutory functioning of such bodies was not being curtailed or interfered with.

2.5 From the above, it is evident that consultation with all the stakeholders, which should have been ideally the starting point for formulating such a crucial piece of legislation for quality control of higher education sector in the country remained the least priority issue for the Department. In principle approval by majority of State Governments in a meeting of CAGE, inspite of its being the highest policy making body cannot be considered adequate enough. Not only this, very valid reservations of some of the State Governments failed to receive the required attention. Ideally, further intensive deliberations were required with the States which the Department failed to undertake.

2.6 The Committee also observes that Central Universities/Deemed Universities /premier institutions which are to be brought under the proposed legislation have remained completely out of the consultation process. The Committee can very well

understand the sheer absence of any suggestions/reservations of higher educational institutions in the private sector, inspite of their being a major stakeholder in such a path-breaking piece of legislation. The kind of response received from the Department to the specific query clearly confirms Committee's apprehension that the Department attaches very little significance to their viewpoint.

2.7 At present, the National Assessment and Accreditation Council (NAAC) undertakes institutional accreditation for all higher educational institutions whereas the National Board of Accreditation undertakes programme accreditation for professional institutions. Ideally, these two bodies, with their experience and expertise, should have been actively involved in the formulation of the proposed legislation. However, in their case also, level of consultation remained confined to one or two meetings.

2.8 In view of the above, the Committee has no option but to conclude that like in the other recently proposed legislations envisaged to bring about major policy changes in the higher education sector, the Department has failed to initiate any meaningful dialogue with the major stakeholders on the present Bill also. The Committee has, therefore, made a serious effort of reaching out to all concerned so as to make an objective assessment of the proposed legislation.

III INTERACTION WITH STAKEHOLDERS

3.1 Before initiating the deliberation process, the Committee decided to seek the views of all concerned. Accordingly, a Press Release inviting memoranda/suggestions on various provisions of the Bill was issued on 25 May, 2010. However, not a very encouraging response was received from the stakeholders. Seven memoranda received on the Bill were forwarded to the Department of Higher Education for its comments. Feedback received from the Department has been taken note of by the Committee. In order to have a proper assessment of the various provisions of the proposed legislation and also to have a better understanding of likely impact of this major policy initiative on

the higher education sector, the Committee held extensive deliberations with various stakeholders. Besides the Departments of Higher Education and Health and Family Welfare, they included experts and bodies/organizations representing both Government and private sector. In a series of meetings, Chairmen, UGC and AICTE, Vice-Chancellor, IGNOU, Chairman, National Board of Accreditation, Director, National Assessment and Accreditation Council, Chairman, Board of Governors, MCI, Education Promotion Society for India, Indian Council of Universities and Prof. K.K. Aggarwal, Chancellor, Lingaya's University and former Vice-Chancellor, Guru Gobind Singh Indraprastha University, New Delhi appeared before the Committee and gave an idea about their thinking on the proposed legislation. The Committee also sent detailed questionnaire to all these stakeholders. This exercise enabled the Committee to examine the Bill and all the allied aspects in an objective manner. **It would not be wrong to conclude that in the absence of a thorough consultation process with all the stakeholders which should have been mandatory on the part of the Department, the Committee was left with no other alternative but to take an initiative in this direction.**

3.2 The Secretary, Department of Higher Education in her deposition before the Committee on 20 April, 2011 stated that so far the accreditation or the quality assurance system prevailing in higher education scheme had been optional and not mandatory. As a result, students and their guardians did not have a credible mechanism of making up their minds about the quality and efficiency of the institutions to which they would be admitting their wards. While enactment of the proposed legislation would give an idea about the exact status of the institutions to students, it would also help the institutions in knowing about their strengths and inadequacies and taking steps to overcome the same.

The provision for mandatory accreditation would result in:-

- credible information on academic quality;
- common frame of reference on quality;
- inter-institutional (national) mobility of students;
- incentivize achievement of higher standards;
- standards measured vis-à-vis the norms laid down by the statutory regulatory authority; and
- international mobility of students to equivalent programmes.

3.3 The Committee was informed that there were only two bodies namely the National Assessment and Accreditation Council (NAAC) under UGC and the National Board of Accreditation (NBA) under AICTE which were accrediting institutions and professional and technical programmes respectively. However, these bodies in spite of their best efforts and also due to accreditation being optional had not shown very significant level of achievement. Only 161 universities out of 504 universities and 4371 colleges out of over 28,000 colleges in the country had been accredited presently. Similarly, out of approximately 17,000 programmes in the technology sector, only 35 per cent programmes had been accredited so far.

3.4 Committee's attention was drawn to the fact that the Expert Bodies/Committees, as indicated below, have recommended mandatory accreditation to the Government:-

Eleventh Plan Objectives on Accreditation

- introduction of a mandatory accreditation system;
- creation of multiple rating agencies with a body to regulate these rating agencies; and
- department-wise ratings in addition to institutional rating.

National Knowledge Commission

- establish an Independent Regulatory Authority for Higher Education (IRAHE), multiple accreditation agencies must be licensed by the IRAHE to assess quality; and
- establish independent and multiple accreditation agencies for all professional institutions.

Yashpal Committee

- creation of a single accreditation window for all institutions of higher education;
- NCHER should create norms, procedures and structures for accrediting of universities and institutions of higher learning; and
- institutions and universities may like to get accreditation from one or more than one agencies depending on their reputation.

3.5 During the course of deliberations, the Chairman, UGC dwelt at length on the previous experience of the Commission in formulating regulations on accreditation and their implementation. He informed the Committee that driven by the consideration of "Quality Higher Education", the UGC in 1994 had set up the National Assessment and Accreditation Council with the objective of making assessment of all the existing universities and colleges. However, after five years, it was realized that the progress of

assessment and accreditation was very slow. Due to the voluntary nature of accreditation, institutions were not coming forward for assessment and accreditation. Therefore, on 25 November, 1999, the UGC decided to make accreditation mandatory for all the Universities. Accordingly, a deadline of 31 December, 2000 was set up for all the Universities to get themselves accredited. However, inspite of extending the deadline by 31 December, 2001, not many universities came forward. The subject was again deliberated by UGC in 2008 which decided to frame regulations in this regard. The UGC in its 462nd meeting had approved the draft UGC (Mandatory Assessment and Accreditation of Higher Educational Institutions) Regulations, 2009 in an attempt to ensure that maximum number of universities applied for accreditation. Committee's attention was also drawn to the fact that UGC's regulations of 2009, even if implemented, would have covered only the universities which were receiving grants from the UGC and most of the professional colleges and institutions, not being universities, and other institutions not receiving grants from UGC would have been left out of its purview. The Chairman, UGC was authorized to fix the date of implementation of the regulations in consultation with the National Assessment and Accreditation Council and National Board of Accreditation. It was also decided that both these institutions would draw a roadmap for the purpose of assessing and accrediting all institutions of higher education.

3.6 The Chairman, UGC emphasized that it would not be practically possible for NAAC and NBA to accomplish this task on their own. Participation of multiple accreditation agencies was also required. There was a need to have a national level authority which should be entrusted with the responsibility of laying down not only the norms and standards of assessment and accreditation but also supervision of the accrediting agencies. It was also pointed out that a national level resource institution needed to be set up so as to ensure that all the centres of learning were the centres of excellence. This could be done only by evolving a mechanism through which it could be determined that the institutions were modernizing their curricula, actively engaged in imparting knowledge, promoting research and innovation etc. which were important aspects of higher education system.

3.7 Committee's attention was drawn to the fact that NBA was established as an autonomous body of AICTE on 7 January, 2010. Prior to that, it existed as an All India Board of AICTE since 1995. Domain of AICTE included the sectors of technology, engineering polytechnics, management, architecture, pharmacy etc which involved different courses of study, different deliverables and different job market. Accordingly, programme-wise accreditation was being undertaken by NBA. It was also pointed out that there was shortage of faculties/experts who could make assessment of programmes for accreditation, with only a database of 2800 experts available with AICTE. There were other problem areas also such as voluntary nature of accreditation, lesser number of accreditation agencies, time-consumption in assessment and accreditation, complaint redressal mechanism, non-statutory nature of the scheme which were being faced under the present system. It was emphasized that in the highly competitive field of higher education, there was a requirement of more accreditation agencies and an accreditation authority or council with a larger infrastructure and manpower. In such a scenario, the mechanism envisaged in the Bill was considered to be a welcome step by the Chairman, AICTE. However, two-three suggestions were made by him for strengthening the proposed mechanism. Periodic assessment of accrediting agencies was one such suggestion put forth before the Committee. Secondly, exercise of selection of accreditation agencies was to be undertaken with all caution. It was also pointed out that expertise available in one field/specialty can also be made one of the criteria for these agencies. This would lead to agencies assessing and accrediting programmes/institutions based on their expertise. It was felt that number of such agencies needed to be limited on the basis of the quality criteria and their performance level. Creation of such agencies under the Act was considered to be a better option. Lastly, provisions relating to penalties and offences also needed to be made more rational.

3.8 The Committee also had the opportunity to interact with the Vice-Chancellor, IGNOU. The first suggestion made by him was that in the formulation of rules/procedures for accreditation, proactive participation of teachers from all disciplines

was required for having fully functional and well-established system of accreditation in place. It was emphasized that teachers alone could be the best judge for making an assessment of an institution. This should be the bench-mark for both government as well as private accreditation agencies. Committee's attention was drawn to the fact that most of the Central Universities inspite of being fully funded by the Central Government, had not undergone assessment and accreditation by NAAC, even after 17 years of its coming into existence. It was only the affiliated colleges, State and other universities which had undergone through this process.

3.9 Another very pertinent issue raised by the Vice-Chancellor, IGNOU was incorporation of research component while undertaking assessment and accreditation of a university. It was pointed out that all over the world, Research Assessment Exercise along with the assessment and accreditation of a university was undertaken every year and accordingly, RAE count of each university, each academy, each Professor was put on the website. This RAE count was the criteria for research grants. Such an inclusion would lead to elimination of many duplicative processes undertaken while processing research applications by various funding agencies. These research accreditation credentials could be made the criteria for release of other development grants to universities both from government and private agencies.

3.10 The Committee was given to understand that the need for a large number of agencies so as to comply with the mandatory accreditation process can be fulfilled to a great extent by having the services of well-established institutions/bodies like Quality Council of India, the Indian Academy of Science, the National Science Academy, the Indian Council for Social Science Research, Indian Chemical Society and similar engineering academies. The need for having separate bench mark for professional and subject agencies was also emphasized for having a foolproof and realistic assessment procedure. Lastly, it was also suggested that annual student satisfaction survey could also be included, thereby giving accreditation a proper weightage.

3.11 Committee's interaction with the Chairman, NBA and Director, NAAC enabled it to have an idea about the working experience at ground level of the two accreditation agencies. Chairman, NBA outlined the process of assessment of every programme undertaken by a three member expert team, drawn from a panel of eminent professors, academicians and researchers from IITs, Universities, Government Engineering Colleges. After a visit of three days, examining all aspects of programme like organization, academic, teaching-learning process, research content etc. and on a programme being given 75 per cent marks, it was accredited for five years. For a programme getting 60 per cent marks, provisional accreditation for two years was given. This had to be finally certified by the Standing Engineering Evaluation Committee. Appellate mechanism also existed for institutions not satisfied with the accreditation grading.

3.12 Welcoming the proposed legislation, specially in the present era of globalization, the Chairman, NBA was of the view that in the initial years, involvement of Government agencies was essential for the quality assurance of programmes. Another suggestion put forth before the Committee was that on the pattern of regional offices of AICTE, working domain of NBA could be expanded by having regional offices.

3.13 Director, NAAC referring to the mandate of NAAC of doing institutional accreditation, highlighted its accreditation procedure, a combination of self-assessment followed by external peer review modeled on international standards of 5000 institutions. This exercise of NAAC was having the support of a well-organized structure and was a mix of innovative and new methodologies, new protocols and new indicators which were being constantly renewed. NAAC had the support of around 3000 assessors comprising of Vice-Chancellors, directors, deans, principals, senior academicians, scientists from institutions of national importance. Not only this, these experts were fully trained as per the international accreditation demands. It was emphasized that the activities of NAAC were transparent, available on the website for all concerned. Committee's attention was also drawn to international linkages developed by NAAC with 12 countries.

3.14 Committee was also given to understand that experience and expertise of NAAC having covered more than 5000 institutional including Central Universities, Deemed Universities, medical/dental colleges, law departments, ordinary management courses, science colleges was much more than international accreditation bodies which had touched a maximum of only 400 institutions. It was also informed that through the Internal Quality Assurance Cell of NAAC, 28 States had established State-level quality assurance cells.

3.15 In view of the above, it was strongly advocated that as all the functions as envisaged in the Bill already being carried out by NAAC, the only exception being giving recognition to agencies, it was fully equipped to carry out the mandate of Accreditation Authority. However, this proposal of NAAC was not considered to be a feasible proposition by NBA. It was pointed out that one single body cannot be the regulator as well as the accreditation agency. It was thereupon clarified by Director, NAAC that it needed to be transformed into a regulatory authority.

3.16 Committee's intensive deliberations with NBA and NAAC, the only two existing agencies involved in the assessment and accreditation of various programmes and institutions across the country has revealed the crucial role being played by these agencies. The Committee is aware that with the enactment of the proposed legislation, assessment and accreditation process is set to become mandatory for the fast growing higher education sector in the country. In such a scenario, both NBA and NAAC with their vast experience and expertise, at both national and international level can play a very constructive role. The Committee, accordingly, is of the view that both these agencies not only should be fully involved in carrying out the objectives of the Bill but should also act as the guide, mentor and advisor for the large number of accreditation agencies proposed to be set up across the country. The Committee would appreciate if all conceivable guidance from NBA and NAAC is made available to each and every accreditation agency. In the formulation of rules/regulations also, these two agencies can contribute a lot. The Committee hopes that the Department would play a pro-active role in this regard.

3.17 Committee's deliberations would have remained incomplete without the views of stakeholders representing private sector. The Committee, accordingly, held an exclusive session with the representatives of the Education Promotion Society for India, Indian Council of Universities and also Prof. K.K. Aggarwal, Chancellor, Lingaya's University and former Vice-Chancellor, Guru Gobin Singh Indraprastha University, New Delhi. The Committee was informed that the institutions representing the Society had undergone both national and international accreditation. Besides NBA and NAAC at the national level, British accreditation through the Institute of Engineering Technology and American accreditation through the American Board of Engineering and Technology was cited as their international exposure. Doubts were, however, raised about the viability of making accreditation mandatory for all the universities and colleges. Mandatory condition of accreditation was considered to be an unrealistic and unnecessary provision, creating hardships for institutions. The other area of concern was linkage of non-adherence of mandatory accreditation with punishment of imprisonment. This was considered to be a very drastic provision. Instead, it was suggested that a positive approach like offering of incentives to institutions opting for accreditation was required. Incentives like recognition, financial assistance, giving of certificates, only accredited institutions being invited for conferences/seminars etc. were cited as the likely incentives. Punishment was not considered the right approach. It was also pointed out that composition of the regulatory authority was required to be made more broad-based representing various disciplines, States etc.

3.18 Another pertinent issue raised by the Society was the need for keeping the Government away from the accreditation exercise. It was suggested that like in USA, only professional bodies should be involved. It was pointed out that for becoming a signatory to Washington Accord, accreditation process was to be independent and without the control of the Government. This was upheld by the Knowledge Commission also. Lastly, instead of punishing non-accredited institutions, giving publicity to their non-accreditation status was considered to be the right approach. It was contended that with more and more students opting for accredited institutions, a situation would be

reached when institutions would be compelled to get accredited, thereby improving their infrastructure, teaching-learning process and ultimately benefitting the student community.

3.19 Besides raising the issue of constitutional validity of the Bill, serious reservations about the penalty provisions, specially those relating to imprisonment were expressed by the representative of the Indian Council of Universities. It was pointed out that some alternative mechanism needed to be adopted, otherwise promoters of higher education were likely to be discouraged. Number of legislative proposals for setting up multiple bodies and multiple laws was not considered appropriate. Rightful course as suggested by the Council was to have one apex body for education.

3.20 Very strong objections were raised about the role of the private sector credit-raising agencies proposed to be involved in the accreditation process in the Bill by the representative of the Society. It was pointed out that such agencies lacked experience in education and without the involvement of educationists, accreditation process could not be considered satisfactory. It was, accordingly, suggested that participation of FICCI, CII, ASSOCHAM could be considered, because of these bodies being aware about the expectation of recruiters. In addition, professional bodies of academicians in economics, in social sciences, in psychology, in management, in pharmacy, in engineering etc. could easily be involved in the accreditation process.

3.21 Sharing his experience of working for both Government and private institutions, Prof. K.K. Agarwal, Chancellor, Lingaya's University, apprised the Committee that the two existing accreditation agencies in the country could achieve only 20 per cent of the target. Lack of speed and professionalism required for accreditation of such a fast expanding higher education sector was cited as the main factor responsible for that. He endorsed the setting up of the Regulatory Authority which itself would not accredit but would be involved in registration of accreditation agencies which would expedite the process ultimately. It was also suggested by him that instead of having fly-by-night agencies, involvement of professional institutions like Institution of Engineers, Institution

of Electronics and Telecommunication Engineers, Computer Society of India, Institution of Chemical Engineers which had proved their association with higher education system in the country for several decades could be considered. Similarly, Chambers/Associations like CII, ASSOHAM, NASSCOM, FICCI, PHD Chambers could be very befitting accreditation agencies.

3.22 Another grey area pointed out by Prof. Aggrawal was that approval agencies and accreditation agencies would have to be different and on different parameters. The parameters of approval and accreditation should be well-defined and needed to be kept separate.

3.23 It was also felt that human interaction needed to be avoided in the accreditation process by having the student feedback, graduates feedback etc. online. Keeping agriculture education out of the purview of the Bill was not considered appropriate as it was an umbrella legislation for accreditation of all categories of higher educational institutions. Lastly, the Committee was cautioned about accreditation being envisaged even before the start of the admission process. It was pointed out that when a college or a university was set up, it was on premises and assumptions, and accreditation at that point of time would rather be counter-productive. Accreditation should be insisted upon only after two batches had graduated so as to have realistic parameters for monitoring. Certification of accreditation agencies for ten years was not considered appropriate. It was suggested that initially, this certification could be for two-three years and based on the experience gained in the implementation of the Act, this certification period could be enhanced. It was emphasized that accreditation process should be independent of the Government as being done internationally.

3.24 The Committee takes note of very valuable suggestions made by the associations/experts representing private sector in higher education. The Committee is of the view that role of professional bodies, financial bodies and premier institutions in the accreditation process as highlighted by these associations is worth consideration and needs to be incorporated in the Act/rules regulations to

be made thereunder. Similarly, all apprehensions about mandatory accreditation need to be addressed appropriately. The Committee also finds merit in the contention on accreditation process to start only after two batches had graduated from institutions after being established. Registration of accreditation agencies only for two-three years initially is also a very practical and sound advice.

3.25 The Committee agrees with the intent of the Bill which is aimed at raising the quality of higher education. The Committee also understands that the higher education system in India is an expanding one with huge disparities among the institutions, norms and standards for judging academic quality for various disciplines being different, vast difference of infrastructure facilities between public and private institutions. In this context, the Committee welcomes that proposed legislation which seeks to set benchmarks/parameters on which an academic credentials of an institution would not only be assessed but accredited also, thus raising the overall quality of higher education and standards of higher educational institutions.

IV CONSTITUTIONAL VALIDITY OF THE BILL

4.1 During the course of deliberations, Committee's attention was drawn towards the issue of constitutional validity of the proposed legislation by the Indian Council of Universities. According to the Council, Parliament was categorically debarred by the Constitution to enact a law for regulation of universities because the subject regulation of universities' was specifically excluded from the legislative powers of Parliament *vide* Entry 44 of Union List and Entry 32 of the State List. *Entry 44 of Union List reads:- "incorporation, regulation and winding up of corporations, whether trading or not with objects not confined to one state, but not including Universities."* *Entry 32 of State List reads:- "incorporation, regulation and winding up of corporations, other than those specified in List I and universities, unincorporated trading, literacy, scientific, religious and other societies and associations, co-operative societies".*

4.2 It was contended that two entries namely Entry 25 of the Concurrent List and Entry 66 of the Union List were generally referred to justify the power of the Parliament to make law on matters concerning education. Entry 25 of the concurrent list reads *“Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I, vocational and technical training of labour”* and Entry 66 of Union List reads *“co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.”* Thus, inspite of education being a concurrent subject, power to regulate universities still could not be exercised by Parliament because of Entry 44 which categorically excluded ‘universities’ from its purview and Entry 66 of Union List gave only a limited jurisdiction to legislate only for co-ordination and determination of standards in institutions of higher education.

4.3 When this issue was taken up with the Department, the following clarification was given:-

“This Ministry does not agree that the National Accreditation Regulation Authority for Higher Educational Institutions, (NARA) Bill, 2010 is unconstitutional.

The Bill has been introduced in Parliament only after examining its constitutionality and was drafted in consultation with the Legislative Department of the Ministry of Law Justice (Legislative Department).

The competence of Parliament to legislate on matters concerning coordination and determination of standards of higher education and research lies with Parliament, by virtue of Entry 66 of List I (Union List) of the 7th Schedule of the Constitution. It may be pertinent to mention that this Entry has remained in the Union List ever since the Constitution came into force on 26th January, 1950 and no constitutional amendment transferring this Entry from any other List has ever taken place. The reference about the transfer of education to the Concurrent List from the State List under the 42nd Amendment refers to the present Entry 25 in the Concurrent List and the earlier Entry No.11 in the State List. The said Entry 25 in the Concurrent List reads as under:

“Education including technical education, medical education and universities, subject to the provision of Entry 63, 64, 65, 66 of List I.”

Therefore, the exercise of powers in respect of any matter concerning education is subject to the provision of any law made under Entry 66 of List I. This has been upheld by the Supreme Court in various judgments. Reference is made to the first such judgment of the Hon’ble Supreme Court in the matter of “Gujarat University Ahmedabad” Vs Krishna Ranganath Mudgaonkar and others (1963) SCR 112 wherein it was clearly laid down by the Supreme Court that any legislation made by virtue of the then Entry 11 in the State List would have to yield to any legislation made under Entry 66 or any regulation made by a body so created under Entry 66.

The present Bill seeks to establish a regulatory authority to register, monitor and audit the functioning of accreditation agencies who would be invested with the responsibility of accrediting higher educational institutions including universities, colleges, institutes, institutions of national importance and programmes conducted therein. It is, therefore, squarely in the domain of Entry 66 of list I, i.e. "Determination of standards of higher education and research."

It may also be mentioned that even Universities established by State Legislatures can be regulated by University Grant commission (UGC) which has been created to sub-serve the purposes of the said Entry 66. By way of example, while State Legislatures are competent to establish, regulated and wind up universities under item 32 of the State List, Supreme Court has upheld that competence of the UGC to regulate private universities established by State Legislatures in discharge of the Commission's responsibility to coordinate university education [Yashpal & Anr. Vs State Chhattisgarh & Ors.] AIR 2003.

This comment of ICU is devoid of any merit since after the 42nd amendment to the Constitution, the universities and technical and professional educational institutions have been incorporated in entry 25 of list II and therefore, Parliament has concurrent powers of legislation.

It is also the established position of law that in case of concurrent powers over a particular subject, if any state law is in conflict with a legislation enacted by Parliament, the State law to that extent shall be void. Entry 44 is an Entry which empowers the Central Government to incorporate, regulate and wind up corporations. It does not in any way clash with entry 25 of list III. The exclusion of universities in entry 44 is only to the extent of subject covered by that particular entry and does not overwrite entry 25 of list III. Entry 63 of List I again has been misinterpreted by ICU. This entry was inserted so as to ensure that the three universities established in pursuance of Article 371E remain within the purview of Central Government for reasons of their existence before independence and also due to the reason that they are institutions of National Importance.

In view of the foregoing, the Ministry does not agree with the contention that the National Accreditation Regulation Authority for Higher Educational Institutions, (NARA) Bill, 2010 is unconstitutional."

4.4 The Committee is of the view that reservation of the Indian Council of Universities about the constitutional validity of the proposed legislation does not seem to be well placed. As pointed out by the Department, after insertion of Entry 25 in List III, Parliament is fully competent to legislate on matters relating to higher education including universities. One must also not forget that the enactment of a legislation proposing setting up a regulatory authority for assessment and accreditation by various agencies is necessary to maintain the standards of higher education within the country as well to protect the interest of students. Assessment and accreditation are the effective means of quality assurance in higher education

the world over. Having such a mandatory system would go a long way in facilitating credible information about institutions and in the process assisting student mobility across institutions, domestic as well as international. In such a scenario, education being in the Concurrent List, initiative taken by the Department for formulation of a Central Law aimed at ensuring the quality of higher education should be considered a welcome step by all concerned.

V GENERAL ISSUES

Separate Accreditation Procedure/Mechanism for Medical Institutions.

5.1 As medical educational institutions were also sought to be covered within the ambit of the term “higher educational institution” the Committee decided to seek the views of the Ministry of Health and Family Welfare and the MCI on the Bill.

5.2 The Secretary, Ministry of Health and Family Welfare, while deposing before the Committee on 20 June, 2011 informed that there did not exist any assessment and accreditation mechanism in respect of medical institutions in the country at present. The concept of accreditation was linked with quality improvement and was, therefore, desirable. At the same time, Committee was also given to understand that in the case of health education, there was a specific need for continuous assessment and validation of the institutions offering courses in various disciplines of health, independent of their accreditation. Every medical college also had an attached hospital and it was essential that the standards of hospital care were measured as also the standards of teaching.

5.3 On a specific query about the applicability of the proposed legislation on the medical institutions, the Committee was informed that initially, Ministry of Health and Family Welfare had opined that the education relating to medicine and inter-related fields should be kept outside the purview of National Assessment and Accreditation Authority. Later, at the time of discussion on the National Commission for Higher Education and Research and National Commission for Human Resources for Health, Ministry had agreed that the power to accredit health educational institutions may remain with a unified accreditation body i.e. the National Accreditation Regulatory Authority (NARA).

5.4 Committee's attention was, however, drawn to the following suggestions/concerns of the Ministry:-

- the National Evaluation and Assessment Committee (NEAC) envisaged under NCHRH would specify standards, norms and process of evaluation and assessment of institutions imparting health education and programmes conducted therein. It would also monitor the functioning of agencies recommended by NCHRH from among the agencies registered under NARA;
- evaluation and assessment by NEAC would be in consonance with the objectives of the national health policy and would form a part of the action plan for implementation of such a policy by NCHRH.
- in the case of health education, there is a need for continuous assessment and validation of the institutions offering various disciplines of health, independent of their accreditation under NARA;
- no health institution can be permitted to start any programme without assessment and evaluation, both in terms of quality and infrastructure by an independent agency;
- accreditation process of a health institution can start only after two or three sessions having been completed; and
- existing statutory regulatory authorities like MCI, DCI and INC would continue to regulate the irrespective streams in health education and set the norms and standards for evaluation and assessment of health institutions in their respective fields.

From the above, it is clear that the Ministry of Health and Family Welfare is of the view that it would be the National Evaluation and Assessment Committee (NEAC) that would provide the tools to NARA by specifying standards, norms and process of evaluation and assessment of institutions imparting health education and programmes conducted therein.

5.5. The Committee observes that medical and health institutions are totally different from technical institutions, law colleges or other management colleges. Different tools and techniques are employed to assess and evaluate a medical institution. Therefore, chances of overlapping and conflict of interests are very much there if the provisions of the proposed Bill are not properly laid down. The Committee finds that currently, MCI is evaluating and assessing medical colleges and the Bill also proposes “laying down norms and policies for assessment of academic quality.” The word assessment could lead to conflict which requires

rethinking. The Committee also takes note of reservation of the Ministry on inclusion of AIIMS, PGI and JIPMER under the ambit of the Bill. As rightly pointed out by it, they are the centres of excellence created by the Acts of Parliament and have been kept out of the purview of even MCI.

5.6 The Committee observes that accreditation of medical education programmes in developed countries like USA and UK is done by independent accreditation authorities meant for accreditation/assessment of medical programmes alone. In USA, the accreditation of programmes leading to the M.D. degree is determined solely by the Liaison Committee on Medical Education and accreditation of post M.D. medical training programmes is the responsibility of the Accreditation Council for Graduate Medical Education. Likewise, in UK, the education, professional engagement and quality assurance in health care delivery is assured by the Council for Healthcare Regulatory Excellence through the Health Profession and Care Council. The Committee also finds that in both these countries, there is a separate set up for setting standards of accreditation, recognition of specific accreditation agencies and eligibility and certification process for Higher Educational Institutions.

5.7 The Committee finds merit in the concerns expressed by the Ministry of Health and Family Welfare. The Committee is of the view that the power to accredit a health educational institution may remain with the National Accreditation Regulatory Authority. However, the Committee is inclined to agree with the stand of the Ministry of Health and Family Welfare about the National Evaluation and Assessment Committee as envisaged under the National Commission for Human Resources in Health being empowered to specify standards, norms and process of evaluation and assessment of medical institutions and their programmes and also monitor the functioning of agencies recommended by NCHRH from among the agencies registered under NARA. The Committee, accordingly, recommends that specific provisions in the context of medical

institutions need to be included in the Bill so as to take care of specialized nature of medical education and also avoid all aspects of overlapping and conflict of interests.

Status of Statutory regulatory bodies like UGC, AICTE, Council of Architecture, IGNOU, MCI, DCI, NCI etc. once this Bill is enacted.

5.8 One of the issues that came up for discussion during the deliberations on the Bill was the status of some of the regulatory bodies once an overarching body i.e. National Assessment and Accreditation Authority came into being. AICTE was of the view that the proposal would not affect the position of these regulatory bodies while NAAC opined that these bodies were expected to be subsumed under the new body i.e. NCHER. The Ministry of Health and Family Welfare also envisaged subsuming of MCI, DCI etc under its overarching regulatory body for health sector viz NCHRH with a dual purpose of reforming the current regulatory framework and enhancing the supply of skilled manpower in health sector.

5.9 On being enquired from the Department on the issue, it replied as under :-

“Statutory functioning of such bodies is not being curtailed or interfered with as such bodies lay down standards of academic quality as mandated by respective acts. This Act recognizes the role of the statutory regulatory bodies such as the UGC, AICTE, and Architecture Council etc for setting of academic standards in respective fields. A provision has been incorporated in the proposed legislation that standards of academic quality shall be as specified by regulations made by the appropriate statutory regulatory Body. Consequently the regulation of the appropriate Statutory Body would prevail in matters concerning academic quality. The role of the accrediting agencies would be to accredit the HE institutions against such academic norms and standards as are laid down by the Statutory regulatory authorities. Regulation of quality and standards of higher education is different from the regulation of the quality and standards in respect of processes of accreditation in order to assess and measure quantity and standards of higher education. Mandatory accreditation would require multiple agencies. Since accreditation of higher educational agencies is a developing field, there is scope for establishing, strengthening and developing organizations with the wherewithal to take up accreditation in due course of time. State Governments/other regulatory bodies may also establish such agencies. NAAC, NBA, MCI, DCI, NCI and COA etc. could not only become themselves accreditation agencies, but could provide the core personnel for the proposed Authority as well. It is also expected that a number of professional associations

such as the Institute of Chartered Accountants/Institute of Cost and Work Accountants/Council of Architecture and similar other bodies and non statutory councils (the ICHR, ICPR, ICSSR etc) may enter the field of accreditation in related sectors.”

5.10 The Committee finds the above response of the Department somewhat contradictory. While on the one side it has been clarified that UGC, AICTE, COA are the statutory bodies assigned the role of prescribing academic standards in their respective fields, it has also been suggested that bodies like MCI, DCI, INC, COA etc. could themselves become the accreditation agencies. The Committee would like to point out that statutory bodies like UGC, AICTE, COA and MCI, DCI, INC dealing with specialized field of medical education have a separate role of setting the standards for approval and ensuring their adherence by the concerned institutions. Accreditation agencies will be concerned with the accreditation of duly recognized and approved institutions. Approval and accreditation are two distinct exercises and need to be handled by different entities. However, bodies like NBA, NAAC, Institute of Chartered Accountants/Institute of Cost and Work Accountants, ICHR, ICPR and ICSSR etc. can very well become accreditation agencies.

Converting NAAC into the proposed National Assessment and Accreditation Authority.

5.11 A strong case for converting NAAC into the proposed National Assessment and Accreditation Authority (NARA) was made out during the deliberations. It was observed that NAAC through its institutional assessment and accreditation work had created awareness in the minds of the people that standards of higher education have to be enhanced. NAAC had been able to convince the academicians and stakeholders in the country about the importance of accreditation by following the policy of self-assessment and external peer review as per the international standard for assessment and accreditation of institutions. With its robust organizational structure, NAAC had developed new methodologies, protocols and indicators based on national consultative meetings, workshops and international gatherings. It had a well established procedure also. The success of NAAC was because of its peers, a collegium of 3000 assessors

which included academicians, vice-chancellors, directors, deans, principals, scientists etc. It was contended that almost all the functions proposed in the Bill were being carried out by NAAC except giving recognition to agencies.

5.12 The Department's reply on the issue was that "NAAC and NBA were autonomous bodies, *“however, they are not and cannot have statutory authority and status until created by legislation. Moreover, the way things are visualized in the Bill, these bodies may continue to function as accreditation agencies but in their new avatar as accreditation agencies registered and authorized by the National Accreditation Regulatory Authority (NARA) the National Accreditation Regulatory Authority will be a creature of the impending legislation and mere conversion of an existing accreditation body may not serve the objectives proposed for NARA.”*

5.13 It was further contended that while some experts in accreditation from NAAC and NBA may be taken on board in the Authority, both NAAC and NBA would continue to function as accreditation agencies after obtaining certificates of registration from the authority under the Act. The expertise gained by NAAC and NBA would be crucial during this transition period and converting them into the Regulatory Authority may not serve the useful purpose.

5.14 The Committee agreeing with the view point of the Department would like to point out that the professional expertise and vast experience of these two bodies should be gainfully utilized in every conceivable aspect in the implementation of the proposed legislation on its being enacted. Both NBA and NAAC can lay down the norms and guidelines to be followed by the new accreditation agencies and also play the role of mentor for them.

VI The Committee makes the following observations/recommendations on some of the provisions of the Bill.

Clause 2: Application of Act

6.1 Clause 2 dealing with the application of the Act reads as follows:-

“This Act shall apply to all higher educational institutions other than the higher educational institutions engaged mainly in agricultural education and research and the programmes of study conducted therein.”

6.2 The Department has justified the exclusion of agricultural education and research from the purview of the Bill on the ground that the constitutional mandate puts agriculture education in the sphere of the State legislature. According to the Department, Item 14 of List II (State List) of the Constitution which reads “Agriculture, including agricultural education and research, Protection against pests and prevention of plant diseases” is self-explanatory and the subject of agricultural education falls in the domain of the State List. It has further contended that Parliament can legislate on agricultural education only in accordance with the provisions of clause 1 of Article 249 of the Constitution.

6.3 The Committee would like to point out that the Bill is basically designed to improve the quality of all higher educational institutions in all the disciplines of higher education and for that purpose seeks to create a national authority for assessment and accreditation and setting up of accreditation agencies. Not only Central Universities but also Deemed Universities/premier institutions, private universities/institutions, state universities/institutions, all IITs/IIMs/NITs etc are proposed to be covered under the proposed legislation. In other words, it would be an umbrella Bill for accreditation, thereby proving to be an effective means of quality assurance in higher education sector in the country. In such a scenario, exclusion of agricultural education and research from the mandatory process of accreditation can be termed as discriminatory from the point of view of protection of student interests. The Committee fails to understand the justification for students opting for agricultural education being deprived of the benefits of mandatory accreditation as proposed for other streams of education. It is for the Government to find a way out. The Department should, therefore, take the initiative for coverage of agricultural education under mandatory accreditation by initiating the exercise of bringing in the legislation on agricultural education in accordance with the provisions of Article 249 of the Constitution.

VII CLAUSE 3: DEFINITIONS

7.1 Clause 3(1) (d) of the Bill defines “appropriate statutory regulatory authority” as:-

“any regulatory authority established under any law for the time being in force, for co-ordinating or determining or maintaining the standards of higher education.”

7.2 On a specific query regarding reference of existing statutory authorities, such as AICTE which was a nodal regulatory authority for technical education, missing from the proposed Bill, the Department clarified that the definition contained in clause 3(1) (d) of the term “appropriate statutory regulatory authority” read with the definition of “accreditation” in clause 3(1) (b) had a very wide amplitude and included AICTE and other statutory regulatory authorities not expressly mentioned. **The Committee accepts the clarification given by the Department.**

7.3 Clause 3 (1) (j) defines “degree” as *“any such degree, as may, with the previous approval of the Central Government, be specified in this behalf by the University Grants Commission by notification in the Official Gazette, under section 22 of the University Grants Commission Act, 1956.”*

7.4 Keeping in view the proposed coverage of medical institutions under the Bill, the Committee specifically enquired from the Department regarding mention of nodal Acts dealing with the medical education, dental education, nursing education etc.. It was clarified that in so far the term 'degree' was concerned even in respect of degrees such as MBBS/BDS coming under the purview of MCI/DCI, the nomenclature was governed by section 22 of the UGC Act, 1956. Thus, there was no conflict with the provisions contained in the Acts of such legislative bodies. **The Committee agrees with the clarification given by the Department.**

VIII Clause 4: Accreditation to be mandatory.

8.1 Clause 4 provides for mandatory accreditation for all higher educational institutions and every programme conducted therein. It reads as follows:-

“Every higher educational institution and every programme conducted therein shall be accredited in accordance with the provisions of this Act and the rules and regulations made thereunder and assessment of such accreditation shall be made before such institution starts the process of admission to such programme;

Provided that a higher educational institution (other than a higher educational institution engaged mainly in medical education) existing before the commencement of this Act, shall within a period of three years from the date of commencement, make an application to an accreditation agency for accreditation of such institution or programme conducted therein under this Act;

Provided further that a higher educational institution engaged mainly in medical education and existing before the commencement of this Act, shall within a period of five years from the date of such commencement, make an application to an accreditation agency for accreditation of such institution or programme conducted therein under this Act;

Provided also that the accreditation agency, to whom such application for accreditation has been made by such higher educational institution, shall, within a period of one hundred and eighty days from the date of such application, undertake and complete accreditation under this Act;

Provided also that the higher educational institution which has been accredited before the commencement of this Act by an agency set up by or under any law for the time being in force, shall be deemed to be accredited under this Act for the period of accreditation by such agency;

Provided also that in case the higher educational institutions referred to in the first or second proviso fails, to, make an application for accreditation or obtain accreditation of such institution or programme conducted therein, within the specified period, such institution shall, without prejudice to any action that may be initiated by the appropriate statutory regulatory authority or proceedings under any law for the time being in force be liable for penalty under section 41 of this Act.”

8.2 It was pointed out by the Department that the present system of accreditation or the quality assurance system in higher education scheme was optional and not mandatory. As a result, many sub-standard institutions had been enrolling students and continuing their operation even on detection of poor quality on the plea of protection of student interest. Therefore, it was felt that a transparent prior assessment and periodical accreditation would be a desirable approach for maintenance of standards in higher education and also for protecting the interests of students and other stakeholders. Accordingly, an *a-priori* assessment and accreditation has been proposed. It was pointed out that nearly 540 universities and over 31,000 colleges existing currently would be accredited under the proposed Bill within a reasonable period of three years. An extended period of five years has been provided for medical institutions.

8.3 The Committee noted that two important policy decisions were being effected through the proposed provision i.e. mandatory accreditation and accreditation even before an institution had started its admission procedure. The Committee received mixed responses from the stakeholders on both the issues. While the Government institutions i.e AICTE, NAAC, NBA and the Ministry of Health and Family Welfare supported the idea of mandatory accreditation, associations/bodies representing private institutions such as the Education Promotion Society for India and the Indian Council of Universities were opposed to the entire provision for mandatory accreditation saying that it would be unrealistic and impractical and would lead to many difficulties. They also opposed the provision on the ground that stringent punishment/penalties had been proposed in the provision for an activity which was more of a not-for-profit service.

8.4 Strong reservations were expressed by professional bodies dealing with regulation and accreditation of universities/institutions and programmes on the proposal for accreditation before start of the admission procedure issue. According to AICTE and NBA, no admission in a new institution should be allowed unless the institution was accredited. In contrast, NAAC pointed out that accreditation was different from recognition, affiliation, audit, quality control etc.. It was a performance evaluation of an HEI and its outcome. Therefore, in NAAC's opinion, at least two batches of students should have been graduated from the HEI before its becoming eligible for accreditation. It was also pointed out by NAAC that the number of years for two batches of students graduating varied for different streams of education like medical, commerce, yoga, ayurveda, paramedical, management, dental, arts, science, engineering, technology etc.. Prof. K.K.Aggarwal, Chancellor, Linagaya's University and former Vice-Chancellor, Guru Gobind Singh Indraprastha University, New Delhi, expressing strong reservations on the provision stated that accrediting an institution before it had even started admissions would prove to be counter productive as institutions would be seeking accreditation at any cost then. The Ministry of Health and Family Welfare was also of the opinion that start-up health institutions could not be accredited from day one.

8.5 The Committee observes that voluntary accreditation till now has proved to be very ineffective with less than one-fifth of colleges and less than one-third of all universities having obtained accreditation. Financial incentives by way of assistance for accreditation as introduced by UGC have failed to attract the institutions to come forward for accreditation. Shortage of faculty and lack of infrastructural facilities have also adversely impacted the accreditation process. With the rapid expansion of higher education sector, the situation is bound to deteriorate further. In such a scenario, the Committee strongly feels that the mandatory nature of accreditation can alone prove to be effective. The provision would enable an institution to get itself assessed on various parameters such as academic quality, infrastructure, quality of teaching, learning and research, management etc by the independent agencies on the norms and standards to be laid down by the proposed National Assessment and Regulatory Authority. This may also lead to evolving of uniform norms/benchmarks to which all institutions would be subjected to for assessment and accreditation which in turn would immensely contribute to the total quality of education.

8.6 The only area of concern for the Committee has been the provision that requires an institution to obtain accreditation before it has even started the admission procedure. The Committee feels that this particular aspect of the provision would lead to impractical and unrealistic consequences. The Committee strongly feels that an institution cannot be assessed for its quality unless a few batches/sessions have been completed. Views of experts/bodies having the experience of accreditation exercise at the ground level in this regard cannot be ignored. The Committee would also like to point out that to start a fresh programme or an institution, the process of recognition/permission/affiliation needs to be made more stringent, so that higher educational institutions can show case their quality sustenance and enhancement initiatives more effectively during the process of accreditation. The Committee therefore, recommends that the words "assessment for such accreditation shall be made before such institution starts the

process of admission to such programme" be replaced by the words "assessment for such accreditation only after two batches of students have passed out".

8.7 The Committee further takes note of a situation where an institution which is being assessed for accreditation after two batches of students have passed out, is not able to get accreditation for justified reasons. For such cases, the Committee recommends that a viable mechanism be devised whereby such an institution is given another opportunity to get itself assessed again. This could be done by giving the institution a reasonable time period to overcome all its shortcomings so that the interests of the students are safeguarded.

IX Clause 7: Qualification for appointment as Chairperson or other member.

9.1 Clause 7 which specifies qualification for appointment as Chairperson or other Members reads as under:-

“(1) A person shall be qualified to be appointed as the Chairperson, if such person-

(a) is not less than fifty-five years of age;

(b) is of ability, integrity and standing, and has adequate knowledge and experience of at least twenty-five years in dealing with matters relating to higher education and research;

(c) is, or has been, a Vice Chancellor of any University, or a Head of an institution of national importance.

(2) A person shall be qualified to be appointed as a Member, if such person-

(a) is not less than fifty-five years of age;

(b) is of ability, integrity and standing, and has adequate knowledge and experience of at least twenty-five years in higher education and research or legal matters.

(3) Out of the four members referred to in section 6, one each shall be chosen from amongst-

(a) Professors in the field of medical education in any University or an institution of national importance;

(b) Professors in the field of science or technology in any University or an institution of national importance;

(c) Professors in the field of social sciences or humanities in any University or an institution of national importance;

(d) persons having knowledge and experience in legal matters.”

9.2 According to the Department, the present configuration has been proposed to provide equal representation to science/technology, social sciences, humanities and legal matters. The objective has been to provide for an odd numbered body.

9.3 Stakeholders heard by the Committee had some reservations on the proposed composition of the apex accreditation authority and qualification of its members. The Ministry of Health and Family Welfare was of the view that it was restrictive to limit the appointment of a member from medical education to a Professor from a University or an institution of national importance. It was pointed out that many other streams like nursing, pharmacy, para-medics were covered under health education and large number of institutions were imparting education in their respective fields. It was, accordingly, suggested that it would be appropriate to have two members representing health education in the Authority. Vice-Chancellor, IGNOU emphasized that there should be one member representing exclusively the field of science as once science and technology were mentioned together, technology was given maximum importance. Fundamental sciences were also very important and real technology could be developed only on their promotion.

9.4 The five member Accreditation Regulatory Authority was considered to be restrictive by the Education Promotion Society for India also. It was pointed out that the Authority should be a broad-based body with 15-20 members representing all the areas, disciplines, States etc. Appointment of members of the Authority by the Central Government was also objected. It was suggested that professional bodies should be involved in the constitution of the Authority. Committee's attention was also drawn to the fact that humanities and social sciences were under-represented by having a single member in the Authority, in spite of these disciplines having an over representation in actual number of students, faculty and institution. Accordingly, two members representing humanities and social sciences needed to be included in the Authority.

9.5 The Committee feels that concerns of different stakeholders about the composition of the Accreditation Regulatory Authority merit serious consideration.

The Committee is also of the view that the proposed apex body is inadequately represented in terms of number of members representing various streams, disciplines and State authorities. Considering the fact that Indian higher educational system is one of the largest and still expanding one with various institutions and disciplines, an expert body of five persons only is grossly inadequate. The Committee is also inclined to agree with the observation of NAAC that academics par excellence, with holistic understanding of the higher education system in India and abroad with insight and experience, with quality assurance and enhancement mechanisms as well as assessment and accreditation as members instead of subject specialists need to be represented in the Authority.

9.6 Not only this, the Committee observes that this small body has been given a vast mandate as enumerated in clause 16 which includes as many as 13 powers and functions with some of the crucial powers indicated below:

- to regulate accreditation agencies;
- to lay down norms and policies for assessment of academic quality in higher educational institutions and programmes;
- to undertake periodical reviews and audit;
- to specify and monitor standards on selection and training of experts;
- to monitor adherence to such norms, guidelines and standards of academic quality as specified by the appropriate statutory regulatory authority in higher educational institutions.

With such manifold functions entrusted to the Authority, with possibility of addition of more functions as indicated in the enabling sub-clause (n) of clause 16(2), it leaves no doubt that it would be practically impossible for a small body to shoulder the crucial responsibilities. The Committee would like to point out that engagement of experts by the Authority as per clause 17 will also fail to facilitate its functioning in the real sense.

9.7 The Committee also observes that in the United States, a federal Committee of 18 members called the National Advisory Committee on Institutional Quality and Integrity is the advisory body to the US Secretary of Education on setting standards of accreditation, recognition of specific accrediting agencies and eligibility and

certification process for Higher Educational Institutions. Australia has a centralized national accreditation body, Australian University Quality Agency which has as members, the education ministers of all the States/Territories. Thus, the international scenario also indicates that the Accreditation Regulatory Authority needs to be a broad-based body. The Committee recommends that the National Accreditation Regulatory Authority has to be a bigger body so as to reflect all the stakeholders representing diverse fields and in consonance with the vast mandate entrusted to it. The Committee would like the Department to expand the strength of the Authority by having additional members as suggested above by different stakeholders. Composition of the Authority as given in clause 7 may be modified accordingly.

X Clause 8: Selection Committee

10.1 Clause 8 which provides for a Selection Committee reads as follows:-

“(1) The Chairman and other Members of the Authority shall be appointed by the Central Government from a panel of names recommended by a Selection Committee consisting of-

(a) Cabinet Secretary.....Chairperson:

(b) Secretary in charge of higher education in the Ministry of Human Resource Development of the Government of India.....Member;

(c) an expert in the field of medical education....Member;

(d) an expert in the field of agricultural education and research....Member;

(e) an expert in the field of legal education.... Member;

(f) Chairman, University Grants Commission....Member.”

10.2 According to the Department, while the Cabinet Secretary would be the Chairperson and the Secretary in-charge of Higher Education, the member-convenor of the Selection Committee, all other members (including Chairman, UGC) would be experts. As the administrative and logistic requirements would need to be looked after by an administrative officer who shall assist the Committee in that role, Secretary, Higher Education would be most appropriate. Medical education will be represented by an expert member, in any case.

10.3 It was pointed out by the Ministry of Health and Family Welfare that the expert member in the Selection Committee from the field of medical education

should be nominated by it. The Committee finds the suggestion of the Ministry of Health and Family Welfare logical. The Committee is also of the view that the Cabinet Secretary who would be the Chairperson of the Selection Committee would essentially be the administrative functionary of the Government and he may or may not have the requisite academic eminence. Accordingly, the Committee recommends that this prestigious panel of experts should be headed by someone of academic eminence having great domain knowledge. The Committee finds it rather surprising that in spite of agricultural education remaining outside the purview of the Bill, an expert in the field of agricultural education and research is proposed to be a member of the Selection Committee. However, the Committee would have no objection to such an expert being made member of the Selection Committee in the event of agricultural education being brought under the purview of the Bill. The Committee also feels that it would have been appropriate if an expert in the field of social sciences/humanities/science/technology is also appointed as a member of the Selection Committee. Composition of the Selection Committee as enumerated in clause 8 may, accordingly, be modified.

XI Clause 21: Eligibility for registration as an accreditation agency

11.1 Clause 21 of the Bill which provides for the eligibility criteria and conditions for an applicant to be registered as an accreditation agency reads as under:-

“No application for grant of a certificate of registration under section 20 shall be considered by the Authority, unless the applicant satisfies the following conditions, namely:-

(a) the applicant is:-

(i) a company registered under section 25 of the Companies Act, 1956 or a society formed and registered under the Societies Registration Act, 1860 or a trust formed under the Indian Trusts Act, 1882 or any other law for the time being in force;

(ii) such company, society or trust is formed or controlled by the Central Government or a State Government or any authority or board or institution established under any Central or State Act;

(b) the applicant is a non-profit organization;

(c) the applicant has, in its memorandum of association or in the trust deed, specified accreditation of higher educational institutions as one of its main objects;

(d) the applicant has adequate infrastructure, to enable it to provide accreditation services in accordance with the provisions of this Act or such infrastructure as may be specified by regulations;

(e) the applicant and the promoters of the applicant, have professional competence, financial soundness and general reputation of fairness and integrity to the satisfaction of the Authority;

(f) the applicant, or its promoters or any member of the governing body of the applicant or its promoter, is not involved in any legal proceeding connected with any higher educational institution except in course of any accreditation proceedings carried out in pursuance of the provisions of this Act and regulations made thereunder;

(g) the applicant, or its promoters, or any director or member, or trustee has, at any time in the past, not been convicted of any offence involving moral turpitude or any economic offence;

(h) the applicant has, in its employment, persons having adequate professional and other relevant experience to the satisfaction of the Authority;

(i) the applicant, or any person directly or indirectly connected with the applicant, has in the past not been:

(i) refused by the Authority a certificate of registration under this Act; or

(ii) subjected to any proceedings for contravention of this Act or of rules or regulations made thereunder or any other law for the time being in force;

(j) the applicant, in all other respects, is a fit and proper person for the grant of a certificate;

(k) the applicant conforms to such other conditions as may be specified by regulations.”

11.2 According to the Department, it is not possible to make an assessment about the availability of agencies other than those engaged at present in the process of accreditation and assessment, namely, NAAC and NBA. The Bill provides scope for the organizations that may have the capacity in terms of the eligibility prescribed therein, but may not be engaged in accreditation at present, to be recognized as accreditation agencies for the purposes of the Bill. The eligibility criteria have been consciously kept stringent in order to prevent run-of-the-mill organizations or fly by night operators to take wrongful

advantage. Hence the present provision of 'discovery' of competent accreditation agencies was being proposed.

11.3 The Chairman, UGC justifying the provision stated that given a large number of institutions, existing in the country, it was practically impossible for the two national level bodies i.e. NAAC & NBA to carry out assessment and accreditation of all the institutions in a fixed time- frame and therefore there was a need for multiple accreditation agencies. The Chairman, AICTE also stated that because of less number of accreditation agencies, the entire process of accreditation took a lot of time. Not only this, both the agencies had limited expert database leading to difficulties and delays in the accreditation process. Welcoming all the provisions of the clause, the Chairman AICTE suggested that periodic assessment of accreditation agencies may also be made a necessary part of the Bill. He also stated that most stringent criteria should be laid down for these prospective accreditation agencies as they would be setting benchmark standards of higher education institutions. NAAC proposed that the registered agencies should be given a clear frame-work of operation by considering various aspects such as subjects offered, number of institutions in state/region etc. Prof K.K. Aggarwal suggested involvement of professional bodies in creating accreditation agencies so that agencies had their own standing and credibility.

11.4 A number of pertinent issues/concerns were raised by the members of the Committee on this particular clause of the Bill. These issues/concerns included:-

- number of multiple accreditation agencies that would be required;
- credibility and transparency of the accreditation agencies and the way to ensure that;
- kind of competition that is required to be fostered among the accreditation agencies to improve their quality;
- multiple accreditation agencies are to be manned by peer groups and people of high academic quality, what would be the functioning and funding part of these agencies and how would the cost aspect be met since the Bill itself rules out profitability;
- there may be a situation where private institutions with better infrastructure facilities may secure top ranking as compared to a public institution with no or less infrastructure facilities but high academic credentials.; and

- what would be the position when an institution seeks multiple accreditation from multiple accreditation agencies and there is difference in the ratings given by the accreditation agencies;

11.5 The Committee understands the need for quality based independent accreditation agencies. However, at the same time, above concerns of the Committee are very crucial as it is not clear how many agencies are required to be set up and what would be their functioning mechanism i.e. whether they would be set up discipline-wise, programme-wise or institution-wise. The Committee also agrees with the observation of the Chairman, AICTE that there is a need to be careful in selecting an accreditation agency as it cannot be an open-ended issue and also that the number of agencies based on quality and their own assessment need to be limited. On the aforesaid concerns being taken up with the Department, the following clarification was given:-

“companies registered under section 25 of the Company’s Act are not-for-profit Companies. In order to ensure that the accreditation agencies do not indulge in unfair practices, sufficient safeguards have been built into the Bill. Firstly, the National Accreditation Regulatory Authority created under the Act will only grant a certificate of registration to an agency if it is satisfying all the conditions as mentioned in clause 20 and 21 of the proposed Bill. The registration can be suspended/revoked in case of any default by an agency as provided under clause 27. Secondly, as a matter of abundant caution clause 25 has been inserted, which prohibits the accreditation agency to do certain thing. Clause 36 of the Bill also provides for penalties and compensation for violating the code of ethics as prescribed under clause 29. Clause 37 further provides that a penalty of rupees five lakhs can be imposed if any agency violates any of the provisions of the Act. Thirdly, in order also to ensure that the litigation related to accreditation etc. does not take a long time thereby inconveniencing the educational institutions and students, the matters related to penalties and compensation etc. will be adjudicated by the State and National Educational Tribunals and not the regular courts. These and other safeguards provided under the Bill ensure that no chance is afforded for anyone to indulge in malpractices.”

The Committee, while appreciating the above clarification of the Department, still feels that to the extent possible, totally private societies and trusts may be avoided in being appointed as accreditation agencies as many private educational institutions may become such agencies for self accreditation. The Committee, therefore, would

like the Department to take note of the above concerns and carry out appropriate modifications in the provisions of Act and also rules/regulations to be made thereunder.

11.6 The Committee observes that evolving quality parameters for higher educational institutions, that are so diverse in size, form, content, resources and age of institutions, is the real challenge. The Committee strongly feels that genuine professional bodies (academics and professional societies in various disciplines) should come forward with a commitment to ensure quality higher education in the country. The Committee finds that such a culture is not present in a major way in the country and this could give rise to pseudo groups coming forward.

11.7 The Committee has been informed that the International Network for Quality Assurance in Higher Education of which NAAC is a member has brought out “Guidelines of Good Practice in Quality Assurance”. These guidelines are the work of quality assurance agencies from over 65 countries dedicated to ensuring that students all over the world have access to high quality education. The Committee is of the view that these guidelines which are designed to be used by all Quality Assurance Agencies, whatever their stage of development can be used as an additional input along with the eligibility criteria prescribed for accreditation agencies.

XII Clause 22: Procedure for grant of certificate

12.1 Clause 22 of the Bill lays down the procedure for grant of certificate as under:-

“(1) The Authority shall, on receipt of the application under section 20 for grant of certificate of registration, issue a public notice, in such form and manner as may be specified by regulations, and place the application together with all documents received with the application, for a period of sixty days from the date of issue of such public notice, on the website of the Authority.

(2) Any person may, within a period of said sixty days referred to in sub-section (1), submit his comments or objections, if any, on the application or part thereof, to the Authority.

(3) The Authority may, within the period of sixty days referred to in sub-section (1), require the applicant to furnish such other information or clarification as it may consider necessary.

(4) The Authority may obtain the advice of such experts, as it deems fit, for the specific purpose of evaluating the competency of the applicant.

(5) The applicant shall, within a period of seven days after making the application under sub-section (1) forward a copy of such application with other documents to all State Governments.

(6) The State Governments shall, within a period of forty-five days after the receipt of the copy of the application referred to in sub-section (5), send its recommendations, if any, to the Authority.

(7) The applicant shall be afforded an opportunity to submit his response on the comments or objections received under sub-section (2) or clarifications sought under sub-section (3) or recommendation made by the State Government, if any, under sub-section (6):

Provided that such response shall be submitted within a period of thirty days from the expiry of the period of sixty days referred to in sub-section (2).

(8) The Authority shall, before granting a certificate of registration under section 23, conduct a public hearing, in such manner as may be specified by regulations, to consider all comments or objections or clarifications or recommendations, if any, and the response of the applicant thereto, including any other matter as the Authority may deem fit for such consideration.”

12.2 According to the Department, the process for grant of certificate as an accreditation agency had to be necessarily elaborate and transparent so that only the competent agencies applied for such certificate and incompetent persons/agencies were discouraged and de-motivated. There was no reason as to why competent and eligible agencies should find the transparent procedures to be de-motivating as the Bill provided for reasonable time limits for each step in the procedure. It was further submitted that in order to make the procedure for granting of certificates inflexible, the same had been provided in the Bill, rather than being prescribed under rules.

12.3 AICTE and NBA both agreed that there was genuine requirement of most stringent criteria being laid down for registering an agency as accreditation agency and transparency must be maintained to remove all doubts. NAAC pointed out that international practices needed to be studied in this regard.

12.4 Committee's concern is that only genuine professional bodies should come forward to take the responsibility of accreditation agencies which would be in a position to perform the assigned duties to carry out the academic audit of the higher educational institutions as mandated in the proposed legislation. The Committee observes that these accreditation agencies are being brought into existence to improve not only the quality of higher education but also that of the institutions. The Committee would like the concept of quality being made applicable to every sphere of the higher education i.e. the faculty, infrastructure, management, besides course content, teacher student involvement etc. Only then, assessment and accreditation can prove to be the effective means of quality assurance in higher education sector. In this context, the Committee would further like to add that the methodology of procedure for grant of certificate of registration needs to be made transparent and public and a reasonable time-frame for the entire process must be fixed.

XIII Clause 23: Grant of certificate of registration

13.1 Clause 23 which provides for issue of certificate of registration reads as under:-

“(1) The Authority shall, as far as practicable within a period of six months from the receipt of such application, after considering the comments or objections or clarifications or recommendations under sub-section (8) of section 22:-

(a) issue a certificate of registration as an accreditation agency, on such terms and conditions as may be specified in such certificate, subject to the provisions of this Act and rules and regulations made thereunder; or

(b) reject the application for reasons to be recorded in writing if such application does not conform to the provisions of this Act or rules or regulations made thereunder or the provisions of any other law for the time being in force;

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

(2) The Authority shall, while issuing a certificate of registration, approve the documents referred to in clauses (a) to (e) of sub-section (2) of section 20 as such or with such modifications, as it may deem fit, and thereupon the accreditation agency shall follow the procedures and conditions so approved in the process of accreditation.

(3) The documents approved under sub-section (2) shall be considered as an integral part of the certificate of registration which shall not be modified or altered without the approval of the Authority.

(4) The Authority may, if it so deems fit, in the certificate of registration granted to an accreditation agency, limit the area or programme for which such accreditation agency may exercise its duties and responsibilities of accreditation.

(5) A certificate of registration shall be valid for a period of ten years unless such certificate is revoked earlier in accordance with the provisions of this Act.”

13.2 It was clarified by the Department that the time-frame of six months prescribed for granting a certificate of registration to an accreditation agency was reasonably sufficient and would also cover unforeseen circumstances and situations.

13.3 Stakeholders heard by the Committee had specific observations on this clause which pertained to time-frame for grant of certificate and number of institutions to be accredited by one agency. While AICTE considered the time-frame of six months realistic, NAAC desired for a specific time frame for grant of registration with well laid protocols. Both AICTE and NAAC differed on the number of institutions to be accredited by one agency as AICTE opined that it need not be specified, whereas NAAC thought that it would be better to specify maximum and minimum number of institutions to be accredited in a given time frame. Ministry of Health and Family Welfare was of concerted view that restricting agency by territorial jurisdiction would harm competitiveness among the agencies. Further, both NAAC and Prof. K.K.Aggarwal expressed the view that in the beginning an accreditation agency should be certified for three-four years only and on satisfactory performance, the term of certificate should be extended for ten years.

13.4 The Committee also feels that the time-frame for validity of certificate of registration to an accrediting agency should be fixed specifically as longer duration may defeat the very purpose of the objective of the Bill. Granting a certificate of registration to an accreditation agency for a period of ten years is not reasonable, even though it is understood that the authority would keep evaluating the

performance on such terms and conditions as specified in the certificate of registration. The Committee recommends that initially the certificate may be granted for five years and thereafter it could be extended to ten years. The Committee, therefore, recommends that clause 23 (5) may be amended accordingly.

XIV Clause 31: Application to Authority on accreditation by accreditation agency

14.1 The clause gives the right to any person aggrieved by the accreditation decided by any accreditation agency to apply to the Authority for withdrawal of such accreditation or its modification.

14.2 The Committee finds the above provision to be vague as no details about the procedure for withdrawal/modifications of accreditation by the Authority on a complaint made by the aggrieved party have been given. Rule/Regulation making powers are also silent on this issue. The Committee is of the view that a well-defined grievance redressal mechanism needs to be in place so as to ensure complete transparency. Rich experience of NBA and NAAC can prove to be very relevant and of great help in this regard.

XV Clause 38: Penalty for obstructing or impersonating an officer of Authority

15.1 This clause provides that if a person, without reasonable excuse, resists, obstructs or attempts to obstruct, impersonate, threaten, intimidate or assault an officer of the Authority or any person assigned to discharge any function, or in exercising his functions under the proposed legislation, such person shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five lakh rupees or with both.

15.2 The Committee observes that penalty proposed under this clause is for offences which are too vague and general and are liable to be misused. No rules or regulations are envisaged to be formulated which can prescribe the mechanism for

giving effect to this provision. Besides that, Committee's attention has also been drawn by clause 44 where-under no court shall take cognizance of any offence punishable under this Act or the rules or regulations made thereunder, save on a complaint made by the Authority or any officer or person authorized by it. Thus, no avenue of clarifying his position seems to be available to the alleged offender. The Committee is also not aware whether any grievance redressal mechanism is proposed to be established under the Act or rules/regulations. Chances are there that there may be valid reasons for taking action as indicated in the clause on the part of the alleged offender. In such a scenario, principle of natural justice is required to be there. The Committee, accordingly, recommends that clause 38 may be suitably modified so as to give an opportunity to the affected party to clarify its position.

XVI Clause 41: General provisions relating to offences and fine

16.1 This clause provides that if any person contravenes or attempts to contravene or abets the contravention of the provisions of the proposed legislation or of any rules or regulations made thereunder, for which no punishment is provided elsewhere in the proposed legislation, such person shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten lakh rupees or with both.

16.2 The Committee was informed that this was an enabling clause that may be used for unforeseen offences and contraventions and was intended to be a deterrent generally. The Committee would however, like to point out that the quantum of maximum penalty and period of imprisonment has been proposed at a higher rate when compared with similar provisions included in the Bill for specific violations and contraventions. Also, an element of clarity and transparency also needs to be incorporated. The Committee fully supports the stringent penal provisions for violation of education laws that protect and promote the quality of education. However, at the same time, effective mechanism for judicious enforcement of such provision also needs to be put in place so as to prevent any act of arbitrariness. The

Committee, accordingly, recommends that clause 41 may be suitably modified and procedure for enforcement of this provision is prescribed through rules/regulations/guidelines/directives.

XVII Clause 43: Offences by society, trust and institutions

17.1 This clause relates to offences committed by a society or trust or agency or institution. Strong objections were raised to sub-clause (2) of this provision by some stakeholders. It was pointed out that the Constitution provides special protection to the Government of States to such an extent that any civil or criminal proceedings pending against a person before any court of law before taking oath as the Governor of a State, were brought to a halt during the entire term of his office. However, as per this provision, civil and criminal charges can be levelled against a Governor of State and he can be put to jail. Most astonishing was the fact that he would be made liable for an act or deed performed in good faith toward discharging of his duties by virtue of his post of Governor.

17.2 This Committee is in agreement with the objections raised on clause 43 (2) and recommends that Governors should be kept outside the purview of this provision.

XVIII Clause 45: Adjudication of penalty

18.1 This Clause provides for adjudication of certain matters by the State Educational Tribunals and the National Educational Tribunal. It provides that except as otherwise provided in the proposed legislation, all matters under clause 36, including determination of compensation thereunder shall be adjudicated by the State Educational Tribunal having jurisdiction. Sub-clause (2) provides that except as otherwise provided in the proposed legislation, all matters under clause 37, including the penalties leviable there under shall be adjudicated by the National Educational Tribunal.

18.2 The Committee observes that the Educational Tribunals Bill needs to be amended to incorporate the provisions relating to adjudication powers given to

National and State Tribunals as mentioned in clauses 36 and 37. Necessary steps may, accordingly, be taken by the Department in this regard.

XIX Clause 49: Power to exempt

19.1 Clause 49 of the Bill which empowers the Central Government to exempt any class or classes of higher educational institutions from the provisions of the Bill reads as under:-

“If the Central Government is of the opinion that it is necessary or expedient in the interests of the general public so to do or for advancement of knowledge, it may, by notification and subject to such conditions as may be specified in the notification, exempt any class or classes of higher educational institutions from the operation of all or any of the provisions of this Act and may, as often as may be necessary, revoke or modify such notification.”

19.2 The Department justified the provision by stating that higher education was unique in its role in the creation of new knowledge/disciplines for which no standards of quality or statutory authority may currently existed. It may take time for standards to be evolved and prescribed in such cases. Therefore, it would be expedient in the public interest to exempt such disciplines/emerging areas of knowledge at the intersection of disciplines from any or all provisions of the present Bill.

19.3 It was further clarified that there may be HEIs which either at present, or in the future served as examples by virtue of their reputation and standing for quality which may be far higher than the minimum standards prescribed by the statutory regulatory authorities. Indeed a broad purpose of accreditation was to motivate HEIs to obtain even greater heights in quality and the proposed clause 49 was intended to be an incentive for attainment of high quality by HEIs. However, such exemption was circumscribed by the conditionality to be specified in the notification and was also not a *carte-a-blanche* as it could be revoked or modified at any time. The clause was intended to be an incentive for attainment of high quality of HEIs. It was also mentioned that every decision of the Central Government has to be a well-reasoned decision and subject to public and parliamentary scrutiny.

19.4 The Committee noted that while the AICTE and the NBA were supportive of the provision, NAAC and the Education Promotion Society for India raised objections. NAAC opined that all higher educational institutions needed to be accredited while Education Promotion Society for India and the Indian Council of Universities termed the provision contradictory, creating two classes of institutions one that had been accredited and the other that had been exempted by the Department.

19.5 The Committee would like to point out that it is not clear for what reason, prospective students should not get information on quality ratings of a certain class of institutions. Even if provision of this clause is to be invoked only in exceptional/circumstances, fact remains that in the absence of any specific criteria/norms/guidelines, apprehensions are there that the influential persons/institutions may get exemption certificates easily which would defeat the very purpose of the Bill. The Committee would also like to point out that our premier institutions are also facing problem of shortage of qualified and experienced faculty as well as absence of required infrastructure and other facilities. To exempt such institutions from the proposed legislation will ultimately prove to be counter-productive only. Therefore, this clause may either be dropped or qualified by adding specific parameters/norms as to when the Central Government can use this discretion under rules/regulations to be framed under the proposed legislation.

20. The Committee adopts the remaining clauses of the Bill without any amendments.

21. The enacting formula and the title are adopted with consequential changes.

22. The Committee recommends that the Bill may be passed after incorporating the amended additions suggested by it.

23. The Committee would like the Department to submit a note with reasons on the recommendations/suggestions which could not be incorporated in the Bill.

RECOMMENDATIONS/OBSERVATIONS AT A GLANCE

I INTRODUCTION

From the above, it is evident that consultation with all the stakeholders, which should have been ideally the starting point for formulating such a crucial piece of legislation for quality control of higher education sector in the country remained the least priority issue for the Department. In principle approval by majority of State Governments in a meeting of CABE, inspite of its being the highest policy making body cannot be considered adequate enough. Not only this, very valid reservations of some of the State Governments failed to receive the required attention. Ideally, further intensive deliberations were required with the States which the Department failed to undertake. (Para 2.5)

The Committee also observes that Central Universities/Deemed Universities /premier institutions which are to be brought under the proposed legislation have remained completely out of the consultation process. The Committee can very well understand the sheer absence of any suggestions/reservations of higher educational institutions in the private sector, inspite of their being a major stakeholder in such a path-breaking piece of legislation. The kind of response received from the Department to the specific query clearly confirms Committee's apprehension that the Department attaches very little significance to their viewpoint. (Para 2.6)

At present, the National Assessment and Accreditation Council (NAAC) undertakes institutional accreditation for all higher educational institutions whereas the National Board of Accreditation undertakes programme accreditation for professional institutions. Ideally, these two bodies, with their experience and expertise, should have been actively involved in the formulation of the proposed legislation. However, in their case also, level of consultation remained confined to one or two meetings. (Para 2.7)

In view of the above, the Committee has no option but to conclude that like in the other recently proposed legislations envisaged to bring about major policy changes in the higher education sector, the Department has failed to initiate any meaningful dialogue with the major stakeholders on the present Bill also. The Committee has, therefore, made a serious effort of reaching out to all concerned so as to make an objective assessment of the proposed legislation. (Para 2.8)

III INTERACTION WITH STAKEHOLDERS

It would not be wrong to conclude that in the absence of a thorough consultation process with all the stakeholders which should have been mandatory on the part of the Department, the Committee was left with no other alternative but to take an initiative in this direction. (Para 3.1)

Committee's intensive deliberations with NBA and NAAC, the only two existing agencies involved in the assessment and accreditation of various programmes and institutions across the country has revealed the crucial role being played by these agencies. The Committee is aware that with the enactment of the proposed legislation, assessment and accreditation process is set to become mandatory for the fast growing higher education sector in the country. In such a scenario, both NBA and NAAC with their vast experience and expertise, at both national and international level can play a very constructive role. The Committee, accordingly, is of the view that both these agencies not only should be fully involved in carrying out the objectives of the Bill but should also act as the guide, mentor and advisor for the large number of accreditation agencies proposed to be set up across the country. The Committee would appreciate if all conceivable guidance from NBA and NAAC is made available to each and every accreditation agency. In the formulation of rules/regulations also, these two agencies can contribute a lot. The Committee hopes that the Department would play a pro-active role in this regard.

(Para 3.16)

The Committee takes note of very valuable suggestions made by the associations/experts representing private sector in higher education. The Committee is of the view that role of professional bodies, financial bodies and premier institutions in the accreditation process as highlighted by these associations is worth consideration and needs to be incorporated in the Act/rules regulations to be made thereunder. Similarly, all apprehensions about mandatory accreditation need to be addressed appropriately. The Committee also finds merit in the contention on accreditation process to start only after two batches had graduated from institutions after being established. Registration of accreditation agencies only for two-three years initially is also a very practical and sound advice.

(Para 3.24)

The Committee agrees with the intent of the Bill which is aimed at raising the quality of higher education. The Committee also understands that the higher education system in India is an expanding one with huge disparities among the institutions, norms and standards for judging academic quality for various disciplines being different, vast difference of infrastructure facilities between public and private institutions. In this context, the Committee welcomes that proposed legislation which seeks to set benchmarks/parameters on which an academic credentials of an institution would not only be assessed but accredited also, thus raising the overall quality of higher education and standards of higher educational institutions.

(Para 3.25)

IV CONSTITUTIONAL VALIDITY OF THE BILL

The Committee is of the view that reservation of the Indian Council of Universities about the constitutional validity of the proposed legislation does not seem to be well placed. As pointed out by the Department, after insertion of Entry 25 in List III, Parliament is fully competent to legislate on matters relating to higher education including universities. One must also not forget that the enactment of a

legislation proposing setting up a regulatory authority for assessment and accreditation by various agencies is necessary to maintain the standards of higher education within the country as well to protect the interest of students. Assessment and accreditation are the effective means of quality assurance in higher education the world over. Having such a mandatory system would go a long way in facilitating credible information about institutions and in the process assisting student mobility across institutions, domestic as well as international. In such a scenario, education being in the Concurrent List, initiative taken by the Department for formulation of a Central Law aimed at ensuring the quality of higher education should be considered a welcome step by all concerned. (Para 4.4)

V GENERAL ISSUES

Separate Accreditation Procedure/Mechanism for Medical Institutions.

The Committee observes that medical and health institutions are totally different from technical institutions, law colleges or other management colleges. Different tools and techniques are employed to assess and evaluate a medical institution. Therefore, chances of overlapping and conflict of interests are very much there if the provisions of the proposed Bill are not properly laid down. The Committee finds that currently, MCI is evaluating and assessing medical colleges and the Bill also proposes “laying down norms and policies for assessment of academic quality.” The word assessment could lead to conflict which requires rethinking. The Committee also takes note of reservation of the Ministry on inclusion of AIIMS, PGI and JIPMER under the ambit of the Bill. As rightly pointed out by it, they are the centres of excellence created by the Acts of Parliament and have been kept out of the purview of even MCI. (Para 5.5)

The Committee observes that accreditation of medical education programmes in developed countries like USA and UK is done by independent accreditation authorities meant for accreditation/assessment of medical programmes alone. In USA, the accreditation of programmes leading to the M.D.

degree is determined solely by the Liaison Committee on Medical Education and accreditation of post M.D. medical training programmes is the responsibility of the Accreditation Council for Graduate Medical Education. Likewise, in UK, the education, professional engagement and quality assurance in health care delivery is assured by the Council for Healthcare Regulatory Excellence through the Health Profession and Care Council. The Committee also finds that in both these countries, there is a separate set up for setting standards of accreditation, recognition of specific accreditation agencies and eligibility and certification process for Higher Educational Institutions. (Para 5.6)

The Committee finds merit in the concerns expressed by the Ministry of Health and Family Welfare. The Committee is of the view that the power to accredit a health educational institution may remain with the National Accreditation Regulatory Authority. However, the Committee is inclined to agree with the stand of the Ministry of Health and Family Welfare about the National Evaluation and Assessment Committee as envisaged under the National Commission for Human Resources in Health being empowered to specify standards, norms and process of evaluation and assessment of medical institutions and their programmes and also monitor the functioning of agencies recommended by NCHRH from among the agencies registered under NARA. The Committee, accordingly, recommends that specific provisions in the context of medical institutions need to be included in the Bill so as to take care of specialized nature of medical education and also avoid all aspects of overlapping and conflict of interests.

(Para 5.7)

Status of Statutory regulatory bodies like UGC, AICTE, Council of Architecture, IGNOU, MCI, DCI, NCI etc. once this Bill is enacted.

The Committee finds the above response of the Department somewhat contradictory. While on the one side it has been clarified that UGC, AICTE, COA are the statutory bodies assigned the role of prescribing academic standards in their

respective fields, it has also been suggested that bodies like MCI, DCI, INC, COA etc. could themselves become the accreditation agencies. The Committee would like to point out that statutory bodies like UGC, AICTE, COA and MCI, DCI, INC dealing with specialized field of medical education have a separate role of setting the standards for approval and ensuring their adherence by the concerned institutions. Accreditation agencies will be concerned with the accreditation of duly recognized and approved institutions. Approval and accreditation are two distinct exercises and need to be handled by different entities. However, bodies like NBA, NAAC, Institute of Chartered Accountants/Institute of Cost and Work Accountants, ICHR, ICPR and ICSSR etc. can very well become accreditation agencies. (Para 5.10)

Converting NAAC into the proposed National Assessment and Accreditation Authority.

The Committee agreeing with the view point of the Department would like to point out that the professional expertise and vast experience of these two bodies should be gainfully utilized in every conceivable aspect in the implementation of the proposed legislation on its being enacted. Both NBA and NAAC can lay down the norms and guidelines to be followed by the new accreditation agencies and also play the role of mentor for them. (Para 5.14)

VI The Committee makes the following observations/recommendations on some of the provisions of the Bill.

Clause 2: Application of Act

The Committee would like to point out that the Bill is basically designed to improve the quality of all higher educational institutions in all the disciplines of higher education and for that purpose seeks to create a national authority for assessment and accreditation and setting up of accreditation agencies. Not only Central Universities but also Deemed Universities/premier institutions, private universities/institutions, state universities/institutions, all IITs/IIMs/NITs etc are

proposed to be covered under the proposed legislation. In other words, it would be an umbrella Bill for accreditation, thereby proving to be an effective means of quality assurance in higher education sector in the country. In such a scenario, exclusion of agricultural education and research from the mandatory process of accreditation can be termed as discriminatory from the point of view of protection of student interests. The Committee fails to understand the justification for students opting for agricultural education being deprived of the benefits of mandatory accreditation as proposed for other streams of education. It is for the Government to find a way out. The Department should, therefore, take the initiative for coverage of agricultural education under mandatory accreditation by initiating the exercise of bringing in the legislation on agricultural education in accordance with the provisions of Article 249 of the Constitution. (Para 6.3)

VIII Clause 4: Accreditation to be mandatory.

The Committee observes that voluntary accreditation till now has proved to be very ineffective with less than one-fifth of colleges and less than one-third of all universities having obtained accreditation. Financial incentives by way of assistance for accreditation as introduced by UGC have failed to attract the institutions to come forward for accreditation. Shortage of faculty and lack of infrastructural facilities have also adversely impacted the accreditation process. With the rapid expansion of higher education sector, the situation is bound to deteriorate further. In such a scenario, the Committee strongly feels that the mandatory nature of accreditation can alone prove to be effective. The provision would enable an institution to get itself assessed on various parameters such as academic quality, infrastructure, quality of teaching, learning and research, management etc by the independent agencies on the norms and standards to be laid down by the proposed National Assessment and Regulatory Authority. This may also lead to evolving of uniform norms/benchmarks to which all institutions would be subjected to for assessment and accreditation which in turn would immensely contribute to the total quality of education. (Para 8.5)

The only area of concern for the Committee has been the provision that requires an institution to obtain accreditation before it has even started the admission procedure. The Committee feels that this particular aspect of the provision would lead to impractical and unrealistic consequences. The Committee strongly feels that an institution cannot be assessed for its quality unless a few batches/sessions have been completed. Views of experts/bodies having the experience of accreditation exercise at the ground level in this regard cannot be ignored. The Committee would also like to point out that to start a fresh programme or an institution, the process of recognition/permission/affiliation needs to be made more stringent, so that higher educational institutions can show case their quality sustenance and enhancement initiatives more effectively during the process of accreditation. The Committee therefore, recommends that the words "assessment for such accreditation shall be made before such institution starts the process of admission to such programme" be replaced by the words "assessment for such accreditation only after two batches of students have passed out". (Para 8.6)

The Committee further takes note of a situation where an institution which is being assessed for accreditation after two batches of students have passed out, is not able to get accreditation for justified reasons. For such cases, the Committee recommends that a viable mechanism be devised whereby such an institution is given another opportunity to get itself assessed again. This could be done by giving the institution a reasonable time period to overcome all its shortcomings so that the interests of the students are safeguarded. (Para 8.7)

IX Clause 7: Qualification for appointment as Chairperson or other member.

The Committee feels that concerns of different stakeholders about the composition of the Accreditation Regulatory Authority merit serious consideration. The Committee is also of the view that the proposed apex body is inadequately represented in terms of number of members representing various streams,

disciplines and State authorities. Considering the fact that Indian higher educational system is one of the largest and still expanding one with various institutions and disciplines, an expert body of five persons only is grossly inadequate. The Committee is also inclined to agree with the observation of NAAC that academics par excellence, with holistic understanding of the higher education system in India and abroad with insight and experience, with quality assurance and enhancement mechanisms as well as assessment and accreditation as members instead of subject specialists need to be represented in the Authority. (Para 9.5)

Not only this, the Committee observes that this small body has been given a vast mandate as enumerated in clause 16 which includes as many as 13 powers and functions with some of the crucial powers indicated below:

- to regulate accreditation agencies;
- to lay down norms and policies for assessment of academic quality in higher educational institutions and programmes;
- to undertake periodical reviews and audit;
- to specify and monitor standards on selection and training of experts;
- to monitor adherence to such norms, guidelines and standards of academic quality as specified by the appropriate statutory regulatory authority in higher educational institutions.

With such manifold functions entrusted to the Authority, with possibility of addition of more functions as indicated in the enabling sub-clause (n) of clause 16(2), it leaves no doubt that it would be practically impossible for a small body to shoulder the crucial responsibilities. The Committee would like to point out that engagement of experts by the Authority as per clause 17 will also fail to facilitate its functioning in the real sense. (Para 9.6)

The Committee also observes that in the United States, a federal Committee of 18 members called the National Advisory Committee on Institutional Quality and Integrity is the advisory body to the US Secretary of Education on setting standards of accreditation, recognition of specific accrediting agencies and eligibility and certification process for Higher Educational Institutions. Australia has a centralized national accreditation body, Australian University Quality Agency

which has as members, the education ministers of all the States/Territories. Thus, the international scenario also indicates that the Accreditation Regulatory Authority needs to be a broad-based body. The Committee recommends that the National Accreditation Regulatory Authority has to be a bigger body so as to reflect all the stakeholders representing diverse fields and in consonance with the vast mandate entrusted to it. The Committee would like the Department to expand the strength of the Authority by having additional members as suggested above by different stakeholders. Composition of the Authority as given in clause 7 may be modified accordingly. (Para 9.7)

X Clause 8: Selection Committee

It was pointed out by the Ministry of Health and Family Welfare that the expert member in the Selection Committee from the field of medical education should be nominated by it. The Committee finds the suggestion of the Ministry of Health and Family Welfare logical. The Committee is also of the view that the Cabinet Secretary who would be the Chairperson of the Selection Committee would essentially be the administrative functionary of the Government and he may or may not have the requisite academic eminence. Accordingly, the Committee recommends that this prestigious panel of experts should be headed by someone of academic eminence having great domain knowledge. The Committee finds it rather surprising that in spite of agricultural education remaining outside the purview of the Bill, an expert in the field of agricultural education and research is proposed to be a member of the Selection Committee. However, the Committee would have no objection to such an expert being made member of the Selection Committee in the event of agricultural education being brought under the purview of the Bill. The Committee also feels that it would have been appropriate if an expert in the field of social sciences/humanities/science/technology is also appointed as a member of the Selection Committee. Composition of the Selection Committee as enumerated in clause 8 may, accordingly, be modified. (Para 10.3)

XI Clause 21: Eligibility for registration as an accreditation agency

The Committee understands the need for quality based independent accreditation agencies. However, at the same time, above concerns of the Committee are very crucial as it is not clear how many agencies are required to be set up and what would be their functioning mechanism i.e. whether they would be set up discipline-wise, programme-wise or institution-wise. The Committee also agrees with the observation of the Chairman, AICTE that there is a need to be careful in selecting an accreditation agency as it cannot be an open-ended issue and also that the number of agencies based on quality and their own assessment need to be limited. On the aforesaid concerns being taken up with the Department, the following clarification was given:-

“companies registered under section 25 of the Company’s Act are not-for-profit Companies. In order to ensure that the accreditation agencies do not indulge in unfair practices, sufficient safeguards have been built into the Bill. Firstly, the National Accreditation Regulatory Authority created under the Act will only grant a certificate of registration to an agency if it is satisfying all the conditions as mentioned in clause 20 and 21 of the proposed Bill. The registration can be suspended/revoked in case of any default by an agency as provided under clause 27. Secondly, as a matter of abundant caution clause 25 has been inserted, which prohibits the accreditation agency to do certain thing. Clause 36 of the Bill also provides for penalties and compensation for violating the code of ethics as prescribed under clause 29. Clause 37 further provides that a penalty of rupees five lakhs can be imposed if any agency violates any of the provisions of the Act. Thirdly, in order also to ensure that the litigation related to accreditation etc. does not take a long time thereby inconveniencing the educational institutions and students, the matters related to penalties and compensation etc. will be adjudicated by the State and National Educational Tribunals and not the regular courts. These and other safeguards provided under the Bill ensure that no chance is afforded for anyone to indulge in malpractices.”

The Committee, while appreciating the above clarification of the Department, still feels that to the extent possible, totally private societies and trusts may be avoided in being appointed as accreditation agencies as many private educational institutions may become such agencies for self accreditation. The Committee, therefore, would like the Department to take note of the above concerns and carry out appropriate modifications in the provisions of Act and also rules/regulations to be made thereunder. (Para 11.5)

The Committee observes that evolving quality parameters for higher educational institutions, that are so diverse in size, form, content, resources and age of institutions, is the real challenge. The Committee strongly feels that genuine professional bodies (academics and professional societies in various disciplines) should come forward with a commitment to ensure quality higher education in the country. The Committee finds that such a culture is not present in a major way in the country and this could give rise to pseudo groups coming forward. (Para 11.6)

The Committee has been informed that the International Network for Quality Assurance in Higher Education of which NAAC is a member has brought out “Guidelines of Good Practice in Quality Assurance”. These guidelines are the work of quality assurance agencies from over 65 countries dedicated to ensuring that students all over the world have access to high quality education. The Committee is of the view that these guidelines which are designed to be used by all Quality Assurance Agencies, whatever their stage of development can be used as an additional input along with the eligibility criteria prescribed for accreditation agencies. (Para 11.7)

XII Clause 22: Procedure for grant of certificate

Committee’s concern is that only genuine professional bodies should come forward to take the responsibility of accreditation agencies which would be in a position to perform the assigned duties to carry out the academic audit of the higher educational institutions as mandated in the proposed legislation. The Committee observes that these accreditation agencies are being brought into existence to improve not only the quality of higher education but also that of the institutions. The Committee would like the concept of quality being made applicable to every sphere of the higher education i.e. the faculty, infrastructure, management, besides course content, teacher student involvement etc. Only then, assessment and accreditation can prove to be the effective means of quality assurance in higher education sector. In this context, the Committee would further like to add that the methodology of procedure for grant of certificate of registration needs to be made

transparent and public and a reasonable time-frame for the entire process must be fixed. (Para 12.4)

XIII Clause 23: Grant of certificate of registration

The Committee also feels that the time-frame for validity of certificate of registration to an accrediting agency should be fixed specifically as longer duration may defeat the very purpose of the objective of the Bill. Granting a certificate of registration to an accreditation agency for a period of ten years is not reasonable, even though it is understood that the authority would keep evaluating the performance on such terms and conditions as specified in the certificate of registration. The Committee recommends that initially the certificate may be granted for five years and thereafter it could be extended to ten years. The Committee, therefore, recommends that clause 23 (5) may be amended accordingly.

(Para 13.5)

XIV Clause 31: Application to Authority on accreditation by accreditation agency

The Committee finds the above provision to be vague as no details about the procedure for withdrawal/modifications of accreditation by the Authority on a complaint made by the aggrieved party have been given. Rule/Regulation making powers are also silent on this issue. The Committee is of the view that a well-defined grievance redressal mechanism needs to be in place so as to ensure complete transparency. Rich experience of NBA and NAAC can prove to be very relevant and of great help in this regard. (Para 14.2)

XV Clause 38: Penalty for obstructing or impersonating an officer of Authority

The Committee observes that penalty proposed under this clause is for offences which are too vague and general and are liable to be misused. No rules or

regulations are envisaged to be formulated which can prescribe the mechanism for giving effect to this provision. Besides that, Committee's attention has also been drawn by clause 44 where-under no court shall take cognizance of any offence punishable under this Act or the rules or regulations made thereunder, save on a complaint made by the Authority or any officer or person authorized by it. Thus, no avenue of clarifying his position seems to be available to the alleged offender. The Committee is also not aware whether any grievance redressal mechanism is proposed to be established under the Act or rules/regulations. Chances are there that there may be valid reasons for taking action as indicated in the clause on the part of the alleged offender. In such a scenario, principle of natural justice is required to be there. The Committee, accordingly, recommends that clause 38 may be suitably modified so as to give an opportunity to the affected party to clarify its position. (Para 15.1)

XVI Clause 41: General provisions relating to offences and fine

The Committee was informed that this was an enabling clause that may be used for unforeseen offences and contraventions and was intended to be a deterrent generally. The Committee would however, like to point out that the quantum of maximum penalty and period of imprisonment has been proposed at a higher rate when compared with similar provisions included in the Bill for specific violations and contraventions. Also, an element of clarity and transparency also needs to be incorporated. The Committee fully supports the stringent penal provisions for violation of education laws that protect and promote the quality of education. However, at the same time, effective mechanism for judicious enforcement of such provision also needs to be put in place so as to prevent any act of arbitrariness. The Committee, accordingly, recommends that clause 41 may be suitably modified and procedure for enforcement of this provision is prescribed through rules/regulations/guidelines/directives. (Para 16.2)

XVII Clause 43: Offences by society, trust and institutions

This Committee is in agreement with the objections raised on clause 43 (2) and recommends that Governors should be kept outside the purview of this provision. (Para 17.2)

XVIII Clause 45: Adjudication of penalty

The Committee observes that the Educational Tribunals Bill needs to be amended to incorporate the provisions relating to adjudication powers given to National and State Tribunals as mentioned in clauses 36 and 37. Necessary steps may, accordingly, be taken by the Department in this regard. (Para 18.2)

XIX Clause 49: Power to exempt

The Committee would like to point out that it is not clear for what reason, prospective students should not get information on quality ratings of a certain class of institutions. Even if provision of this clause is to be invoked only in exceptional/circumstances, fact remains that in the absence of any specific criteria/norms/guidelines, apprehensions are there that the influential persons/institutions may get exemption certificates easily which would defeat the very purpose of the Bill. The Committee would also like to point out that our premier institutions are also facing problem of shortage of qualified and experienced faculty as well as absence of required infrastructure and other facilities. To exempt such institutions from the proposed legislation will ultimately prove to be counter-productive only. Therefore, this clause may either be dropped or qualified by adding specific parameters/norms as to when the Central Government can use this discretion under rules/regulations to be framed under the proposed legislation. (Para 19.5)

MINUTES

XXI

TWENTY FIRST-MEETING

The Committee on Human Resource Development met at 11.00 A.M. on Wednesday, the 20th April, 2011 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

1. Dr. K. Keshava Rao- in the Chair
2. Shri Prakash Javadekar
3. Shri Rama Jois
4. Shri Pramod Kureel
5. Shri N.K.Singh
6. Dr. Janardhan Waghmare
7. Shri N.Balaganga

LOK SABHA

8. Shri Kirti Azad
9. Shri P.K Biju
10. Shri Suresh Chanabasappa Angadi
11. Shri P.C. Gaddigoudar
12. Capt. Jai Narain Prasad Nishad
13. Shri Jeetendrasingh Bundela
14. Smt J.Helen Davidson
15. Shri P.Kumar
16. Shri Prasanta Kumar Majumdar
17. Shri Brijbhushan Sharan Singh
18. Shri Ashok Tanwar
19. Shri Joseph Toppo
20. Dr.Vinay Kumar Pandey 'Vinnu'
21. Shri. P Vishwanathan
22. Shri Deepender Singh Hooda
23. Shri Madhu Goud Yaskhi

LIST OF WITNESSES

I. THE NATIONAL ACCREDITATION REGULATORY AUTHORITY FOR HIGHER EDUCATIONAL INSTITUTIONS BILL, 2010.

DEPARTMENT OF HIGHER EDUCATION MINISTRY OF HUMAN RESOURCE DEVELOPMENT

1. Smt. Vibha Puri Das, Secretary
2. Shri Sunil Kumar, Additional Secretary
3. Shri R.P. Sisodia, Joint Secretary
4. Smt. Rashmi Chowdhary, Director
5. Shri Upamanyu Basu, Director
6. Prof. Ved Prakash, Chairman, UGC
7. Prof. S.S. Mantha, Chairman, AICTE
8. Dr. N.A. Kazmi, Secretary, UGC
9. Dr. (Col.) M.K. Hada, Member Secretary, AICTE

LEGISLATIVE DEPARTMENT, MINISTRY OF LAW & JUSTICE

1. Dr. G.N. Raju, Joint Secretary

II. *** *** *** *** *** ***

SECRETARIAT

Smt.Vandana Garg, Additional Secretary
Shri Arun Sharma, Joint Director
Shri Sanjay Singh, Assistant Director
Smt. Himanshi Arya, Committee Officer
Smt. Harshita Shankar, Committee Officer

2. At the outset, the Chairman welcomed the members to the meeting of the Committee convened to take up clause by clause consideration of the Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational institutions and Universities Bill, 2010 and also to hear the Secretaries Department of Higher Education and the Ministry of Women and Child Development on the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010 and the Protection of Women From Sexual Harassment at Work Place Bill, 2010 respectively.

3. *** *** *** *** ***

4. The Committee then heard the Secretary, Department of Higher Education on the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010. The Secretary made a detailed power-point presentation highlighting various provisions of the Bill. The Members raised queries, some of which were replied to by the Secretary. The Committee decided to send a detailed questionnaire on the Bill to the Department for its written replies.

5. *** *** *** *** *** ***

6 A verbatim record of the proceeding of the meeting was kept.

7. The Committee then adjourned at 5.15 P.M.

***Relates to other matter.

XXIII
TWENTY THIRD-MEETING

The Committee on Human Resource Development met at 3.30 P.M. on Thursday, the 19th May, 2011 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT
RAJYA SABHA

1. Shri Oscar Fernandes - Chairman
2. Dr. K.Keshava Rao
3. Shri Prakash Javadekar
4. Shri M. Rama Jois
5. Shri N.K.Singh
6. Shri N.Balaganga

LOK SABHA

7. Shri Kirti Azad
8. Shri P.K Biju
9. Shri Suresh Chanabasappa Angadi
10. Smt J.Helen Davidson
11. Shri P.C. Gaddigoudar
12. Shri Rahul Gandhi
13. Shri Deepender Singh Hooda
14. Shri Prataprao Ganpatarao Jadhav
15. Shri P.Kumar
16. Shri Prasanta Kumar Majumdar
17. Capt. Jai Narain Prasad Nishad
18. Shri Tapas Paul
19. Shri Brijbhushan Sharan Singh
20. Shri Joseph Toppo
21. Shri Madhu Goud Yaskhi

LIST OF WITNESSES

**THE NATIONAL ACCREDITATION REGULATORY AUTHORITY FOR
HIGHER EDUCATIONAL INSTITUTIONS BILL, 2010**

(I) ALL INDIA COUNCIL FOR TECHNICAL EDUCATION

- (i) Prof. S.S. Mantha, Chairman
- (ii) Dr. (Col.) M.K. Hada, Member Secretary

(II) INDIRA GANDHI NATIONAL OPEN UNIVERSITY

(i) Prof. V.N. Rajasekharan Pillai, Vice-Chancellor

SECRETARIAT

Smt. Vandana Garg, Additional Secretary
Shri N.S. Walia, Director
Shri Sanjay Singh, Assistant Director
Smt. Himanshi Arya, Committee Officer

2. At the outset, the Chairman welcomed the members to the meeting of the Committee convened to hear the Chairman, AICTE and the Vice-Chancellor, IGNOU on the various provisions of the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010.
3. Thereafter, the Committee heard the Chairman, AICTE and the Vice-Chancellor, IGNOU on the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010. Members raised certain queries, some of which were replied to by the witnesses. The Committee, thereafter, decided to send questionnaire to AICTE and IGNOU for written replies.
4. A verbatim record of the proceedings of the meeting was kept.
5. The Committee decided to hold its next meeting on 26th May, 2011 for adoption of the Report on the Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010.
6. The meeting was adjourned at 5.05 p.m. to meet again on 26th May, 2011.

XXVI
TWENTY SIXTH-MEETING

The Committee on Human Resource Development met at 3.00 P.M. on Monday, the 20th June, 2011 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT
RAJYA SABHA

1. Shri Oscar Fernandes - Chairman
2. Shrimati Mohsina Kidwai
3. Shri Prakash Javadekar
4. Shri M. Rama Jois
5. Shri Pramod Kureel

LOK SABHA

6. Shri P.K Biju
7. Shri Jeetendrasingh Bundela
8. Shri Suresh Chanabasappa Angadi
9. Smt J.Helen Davidson
10. Shri P.C.Gaddigoudar
11. Shri Prataprao Ganpatrao Jadhav
12. Shri Prasanta Kumar Majumdar
13. Capt. Jai Narain Prasad Nishad
14. Shri Sheesh Ram Ola
15. Shri Tapas Paul
16. Shri Brijbhushan Sharan Singh
17. Shri Joseph Toppo
18. Dr. Vinay Kumar Pandey 'Vinnu'
19. Shri P.Vishwanathan

LIST OF WITNESSES

**THE NATIONAL ACCREDITATION REGULATORY AUTHORITY FOR
HIGHER EDUCATIONAL INSTITUTIONS BILL, 2010.**

I NATIONAL BOARD OF ACCREDITATION

- (i) Prof. B.C. Majumdar, Chairman
- (ii) Dr. D.K. Paliwal, Member-Secretary

the witnesses. The Committee decided to send a questionnaire to them for their response.

(The witnesses then withdrew.)

6. Thereafter, the Committee interacted with the Secretary, Ministry of Health & Family Welfare and Chairman, Board of Governors, Medical Council of India on the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010, problem areas, if any, and suggestions on the same. The Chairman and members raised certain queries some of which were replied to by the witnesses. The Committee decided to send a questionnaire to them for their response.

7. Verbatim record of the proceedings was kept.

8. The meeting was adjourned at 5.00 p.m. to meet again on the 28th June, 2011.

XXVII

TWENTY SEVENTH-MEETING

The Committee on Human Resource Development met at 3.00 P.M. on Monday, the 28th June, 2011 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

1. Shri Oscar Fernandes - *Chairman*
2. Shrimati Mohsina Kidwai
3. Dr. Janardhan Waghmare

LOK SABHA

4. Shri P.K Biju
5. Shri Jeetendrasingh Bundela
6. Smt J.Helen Davidson
7. Shri P.C.Gaddigoudar
8. Shri Prataprao Ganpatrao Jadhav
9. Shri P. Kumar
10. Shri Prasanta Kumar Majumdar
11. Capt. Jai Narain Prasad Nishad
12. Shri Tapas Paul
13. Shri Brijbhushan Sharan Singh
14. Shri Joseph Toppo
15. Dr. Vinay Kumar Pandey 'Vinnu'
16. Shri P.Vishwanathan

WITNESSES ON THE NATIONAL ACCREDITATION REGULATORY AUTHORITY FOR HIGHER EDUCATIONAL INSTITUTIONS BILL, 2010

I. THE EDUCATIONA PROMOTION SOCIETY FOR INDIA

- (i) Dr. G. Viswanathan, President, Founder & Chancellor, VIT University, VIT
- (ii) Dr. H. Chaturvedi, Alternate President & Director, Birla Institute of Management Technology
- (iii) Shri Manohar Chellani, Secretary General
- (iv) Dr. G.C. Saxena, Advisor

II. INDIAN COUNCIL OF UNIVERSITIES

- (i) Shri Ashok K. Mittal, Chancellor, Lovely Professional University, Punjab
- (ii) Dr. V.K. Aggarawal, Chairman, Sunrise University
- (iii) Shri Umesh Sharma, Director, Sunrise University
- (iv) Shri Kapil Suri, Director, Jodhpur National University, Rajasthan
- (v) Dr. Balvir S. Tomar, Chancellor, NIMS University
- (vi) Shri. Y.K. Gupta, Pro Chancellor, Sharda University
- (vii) Shri R.D. Kaushik, Director, LPU

III. LINGAYA'S UNIVERSITY

- (i) Prof. K.K. Aggarwal, Chancellor, Lingaya's University & Former Vice-Chancellor of Indraprastha University

SECRETARIAT

Smt. Vandana Garg, Additional Secretary
Shri N.S. Walia, Director
Shri Arun Sharma, Joint Director
Shri Sanjay Singh, Assistant Director
Smt. Himanshi Arya, Committee Officer
Smt. Harshita Shankar, Committee Officer

2. At the outset, the Chairman welcomed the Members to the meeting of the Committee convened to hear organizations and experts on the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010, namely, the Education Promotion Society for India, Indian Council of Universities and the Chancellor of Lingaya's University (Former Vice-Chancellor of Indraprastha University). The Chairman informed the members that with this interaction, the deliberations on this Bill would be complete and directed the Secretariat to prepare a Statement on the said Bill. The Chairman, further, informed the members about the second item on the agenda, i.e., the clause-by-clause consideration of the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010.

3. The Committee, then, heard the views of the representatives of the Education Promotion Society for India, Indian Council of Universities and Prof. K.K. Aggarwal, Chancellor of Lingaya's University (Former Vice-Chancellor of Indraprastha University) on the various provisions of the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010, problems areas, if any, and suggestions therefor. The Chairman and members raised some queries which were replied to by the witnesses. The Committee decided to send a questionnaire to each of the organizations for their comments.

(The witnesses then withdrew.)

4. *** *** *** *** ***

5. The Committee was adjourned at 5.00 p.m. to meet again at 3.00 p.m. on Wednesday, the 6th July, 2011.

***Relates to other matter.

XXX

THIRTIETH -MEETING

The Committee on Human Resource Development met at 3.00 P.M. on Friday, the 22nd July, 2011 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

1. Shri Oscar Fernandes - Chairman
2. Shrimati Mohsina Kidwai
3. Shri Prakash Javadekar
4. Shri Pramod Kureel
5. Shri N.K. Singh
6. Shri N. Balaganga

LOK SABHA

7. Shri P.K Biju
8. Shri Jeetendasingh Bundela
9. Shri Suresh Chanabasappa Angadi
10. Smt J.Helen Davidson
11. Shri P.C. Gaaddigoudar
12. Shri P. Kumar
13. Shri Prasanta Kumar Majumdar
14. Capt. Jai Narain Prasad Nishad
15. Shri Sheesh Ram Ola
16. Shri Brijbhushan Sharan Singh
17. Shri Joseph Toppo
18. Dr. Vinay Kumar Pandey 'Vinnu'
19. Shri Madhu Goud Yaskhi

SECRETARIAT

Smt. Vandana Garg, Additional Secretary
Shri N.S. Walia, Director
Shri Arun Sharma, Joint Director
Shri Sanjay Singh, Assistant Director
Smt. Himanshi Arya, Committee Officer
Smt. Harshita Shankar, Committee Officer

2. At the outset, the Chairman welcomed the Members to the meeting of the Committee convened to consider and adopt the draft 237th Report on the Foreign Educational Institutions (Entry and Operations) Bill, 2010 and clause-by-clause consideration of the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010. The Chairman also requested the Members to give their option for nomination in either of the two Sub-Committees being constituted on the subjects "Faculty Position in Higher Educational Institutions" and "Implementation of the Right to Education Act, 2010" respectively.

3. *** *** *** *** ***

4. The Committee, then, took up the clause-by-clause consideration of the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010 and directed the Secretariat to draft a report on the Bill based on the deliberations.

5. The Committee, while taking note of the fact that the deadline for presenting the Report on the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010 being 31st July, 2011 and Secretariat requiring some time to draft the Report which may be considered and adopted by the Committee, decided to seek extension of time from Hon'ble Chairman, Rajya Sabha till, 15th August, 2011. The Committee also decided to present its 237th Report on the Foreign Educational Institutions (Entry and Operations) Bill, 2010 to both the House of Parliament on 1st August, 2011.

6. Verbatim record of the meeting was kept.

7. The Committee then adjourned at 4.30 p.m.

***Relates to other matter.

XXXI

THIRTY FIRST - MEETING

The Committee on Human Resource Development met at 4.00 P.M. on Monday, the 8th August, 2011 in Room No. '63', First Floor, Parliament House, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

1. Shri Oscar Fernandes - Chairman
2. Shri Prakash Javadekar
3. Shri M. Rama Jois
4. Shri Pramod Kureel
5. Shri N.K. Singh
6. Dr. Janardhan Waghmare

LOK SABHA

7. Shri P.K Biju
8. Shri Suresh Chanabasappa Angadi
9. Shri P.C. Gaaddigoudar
10. Shri P. Kumar
11. Shri Prasanta Kumar Majumdar
12. Shri Ashok Tanwar
13. Shri Joseph Toppo
14. Dr. Vinay Kumar Pandey 'Vinnu'

SECRETARIAT

Smt. Vandana Garg, Additional Secretary
Shri N.S. Walia, Director
Shri Sanjay Singh, Assistant Director
Smt. Himanshi Arya, Committee Officer
Smt. Harshita Shankar, Committee Officer

2. At the outset, the Chairman welcomed the Members to the meeting of the Committee convened to consider and adopt the draft 238th Report on the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010.

3. Thereafter, the Committee considered the draft 238th Report on the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010 and adopted the same with few modifications. Shri Pramod Kureel, M.P., Rajya Sabha gave a dissent note on the Bill which the Chairman directed to append to the Report as a minutes of dissent. The Committee also decided to

present the Report in both the Houses of Parliament on Friday, the 12th August, 2011.

4. Verbatim record of the proceedings was kept.
5. The Committee then adjourned at 5.30 p.m.