



# PARLIAMENT OF INDIA RAJYA SABHA

241

---

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

TWO HUNDRED FORTY-FIRST REPORT

ON

THE NATIONAL ACADEMIC DEPOSITORY BILL, 2011

---

(PRESENTED TO THE RAJYA SABHA ON 13<sup>TH</sup> MARCH, 2012)  
(LAID ON THE TABLE OF LOK SABHA ON 13<sup>TH</sup> MARCH, 2012)

RAJYA SABHA SECRETARIAT  
NEW DELHI

MARCH, 2012/ PHALGUNA, 1933-34 (SAKA)

# **PARLIAMENT OF INDIA RAJYA SABHA**

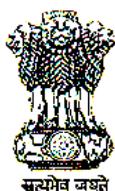
**DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE  
ON HUMAN RESOURCE DEVELOPMENT**

**TWO HUNDRED FORTY-FIRST REPORT**

**ON**

**THE NATIONAL ACADEMIC DEPOSITORY BILL, 2011**

**(PRESENTED TO THE RAJYA SABHA ON 13<sup>TH</sup> MARCH, 2012)  
(LAID ON THE TABLE OF LOK SABHA ON 13<sup>TH</sup> MARCH, 2012)**



**RAJYA SABHA SECRETARIAT  
NEW DELHI**

**MARCH, 2012/ PHALGUNA, 1933-34 (SAKA)**

# CONTENTS

	PAGES
1. COMPOSITION OF THE COMMITTEE .....	(i)
2. PREFACE.....	(ii)
3. REPORT.....	
4. OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE - AT A GLANCE	
5. MINUTES .....	
6. *ANNEXURE .....	

---

\* will be appended at the printing stage.

**COMPOSITION OF THE COMMITTEE ON HRD  
(2011-12)**

**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 E.T. Mohammed Basheer
12. Shri Kuvarjibhai Mohanbhai Bavalia
13. Shri Mirza Mehboob Beg
14. Shri Sameer Bhujbal
15. Shri P.K. Biju
16. Shri Jeetendra Singh Bundela
17. Shri Suresh Channabasappa Angadi
18. Shri P.C. Gaddigoudar
19. Shri Rahul Gandhi
20. Shri Kapil Muni Karwariya
21. Capt. Jai Narayan Prasad Nishad
22. Shri Sheesh Ram Ola
23. Km. Saroj Pandey
24. Shri Prasanna Kumar Patasani
25. Shri Balakrishna Khanderao Shukla
26. Shri Ashok Tanwar
27. Shri Joseph Toppo
28. Dr. Vinay Kumar Pandey 'Vinnu'
29. Shri P. Viswanathan
30. Shri Madhu Goud Yaskhi
31. Shri Rathod Ramesh

**SECRETARIAT**

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

## P R E F A C E

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 Forty First Report of the Committee on the National Academic Depository Bill, 2011.

2. The National Academic Depository Bill, 2011 was introduced in the Lok Sabha on 5 September, 2011. In pursuance of Rule 270 relating to the Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha referred the Bill to the Committee on 16 September, 2011 for examination and report.

3. The Committee issued a Press Release on 5 October, 2011 for inviting views and suggestions of the general public as well as the stakeholders on the Bill. The Committee received nine memoranda in response to the Press Release. The memoranda were forwarded to the Department of Higher Education for comments. Views of the stakeholders and the comments of the Department were taken note of while formulating the observations and recommendations of the Committee. The Committee held extensive deliberations with both Government and Private Sector stakeholders which included, Secretary, Department of Higher Education, Chairman, University Grants Commission, Chairman, All India Council of Technical Education, Chairman, Central Board of Secondary Education, Director, IIT, Kanpur, and representatives of the Securities and Exchange Board of India, ICICI, Association of Indian Universities, Indian Council of Universities, Education Promotion Society for India and Sarthak Advocates and Solicitors.

4. The Committee considered the Bill in six sittings held on 23 November, 2011, 12, 13 and 27 January, 2012 and 6 and 22 February, 2012

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 questionnaires and memoranda of the stakeholders along with the issues raised by the Members during the course of the oral evidence; and
- (iv) Replies to the questionnaires 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 22 February, 2012.

NEW DELHI;  
*February, 22, 2012*  
*Phalgun, 1933-34 (Saka)*

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

## REPORT

### I. INTRODUCTION

1.1 The National Academic Depository Bill, 2011 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 16 September, 2011 for examination and report.

1.2 The Bill seeks to provide for maintenance of national database of academic awards in electronic format in a depository to be known as the National Academic Depository and for verification and authentication of such awards and for matters connected therewith or incidental thereto.

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

*Educational Institutions, such as universities, colleges and polytechnics and Boards of School Education, issue academic awards to students including degrees, diplomas and certificates along with marks-sheets of the secondary, higher secondary and higher education levels. Those who are entering into employment require a credible, authentic and easily accessible mechanism for access to, and verification of, academic awards granted by various universities, colleges and polytechnics and Boards of School Education.*

*Keeping the academic awards in electronic depository would provide benefits to educational institutions, students and employers by enabling online access of academic awards which shall eliminate the need for any person to approach educational institutions, for obtaining transcripts of such awards or marks-sheets for verification. It would also eliminate fraudulent practices such as forging of certificates and marks-sheets, by facilitating online verification thereof. Therefore, a need has been felt for a simplified mechanism to verify academic awards.*

*The proposed legislation provides for maintenance of a national database of such academic awards in electronic format in a depository to be known as the National Academic Depository and for verification and authentication of such awards. The establishment of National Academic Depository analogous to depositories in the financial sector is a technology-based solution to ensure confidentiality, authenticity and fidelity of academic records enabling online verification and easy retrieval of details of academic awards. It would also reduce the need for institutions to preserve physical records related to academic performance of students over a long time.*

1.4 The Secretary, Department of Higher Education in her deposition before the Committee on 23 November, 2011 gave an overview of the background which necessitated the proposed legislation. With the tremendous growth in the education sector, mobility of students across levels of education as well as between institutions of learning was increasing manifold. There was also a need for a simplified mechanism to verify academic qualifications for those entering into employment who required a credible, authentic and easily accessible mechanism for access to and verification of academic awards. The Secretary pointed out that several problems were being noticed in the prevailing manual system of maintenance of academic records being faced by the

institutions, students, alumni and employers. These problems were difficulty in preservation of the academic records and their spoilage over time; cumbersome and time-consuming retrieval and verification process of academic qualifications; difficulty in obtaining duplicates and transcripts; problems relating to fake/forged certificates and the consequent damage to the credibility of qualifications issued by educational institutions. The Department was, accordingly, contemplating the establishment of a national database of academic qualifications created and maintained in an electronic format by an identified and registered depository.

1.5 The Secretary drew the attention of the Committee to the fact that the Government had made dematerialization of financial securities mandatory through a legislation not only to ensure the trading of financial security flawless but also make the entire process more transparent. Emphasizing that educational certificates and awards were an even more important guarantor of the future than financial security, the Secretary mentioned that they were highly susceptible to frauds and harassment with respect to authentication. In such a scenario, Government was of the view that it was important that these certificates should also be subject to dematerialization to enable better future for the students.

1.6 The Secretary then dwelt upon the main features of the Bill. The proposed Electronic Depository would hold details of academic certificates of students in dematerialized form. Various academic degree granting institutions would establish connectivity with the Electronic Depository to upload details of academic certificates. The Electronic Depository would be accessible online by all the authorized academic institutions admitting students for higher education, employers and Government organizations etc. for verification of academic certificates of prospective candidates. While the total access to the Electronic Depository would be online, the Depository would establish network of facilitation centres for candidates to submit dematerialization requests of past academic certificates and requests for authentication. The system would also have the necessary security feature to ensure that only authorized users had access to authorized functions. The Committee was also given to understand that no expenditure from the Government side was expected as it would be a fully user service charge-based service provision with users being educational institutions, employers and other stakeholders.

1.7 During the course of deliberations, the Chairman, AICTE informed the Committee that requests were received from bodies abroad and also from several other agencies, asking for authentication of documents issued by some universities or other bodies. In such cases, concerned university had to be approached by AICTE for confirmation. The proposed legislation would prove to be extremely useful in the sense that all the documents – the marks-sheets, the passing certificates would be made available in electronic form through a proper document management

system, taking care of all possibilities of external intervention. Emphasizing upon the need for such a legislation, the Chairman, CBSE apprised the Committee that there were a number of fake Boards having similar nomenclature like the Central Board of Higher Education and the Central Board of Education and many a times students were duped into taking fake certificates from them. With the proposed legislation coming into force, students would be better placed as only authenticated Boards and Institutions would be authorized to lodge their data.

1.8 To have an idea about any similar mechanism prevalent in any other country, the Department was asked to apprise the Committee in this regard. In response, the Committee was given to understand that in no country, there was an Act mandating dematerialization of academic awards. Committee's attention was drawn to the Family Education Rights and Privacy Act, 1974 of USA which provided for regulation of educational awards of students. Besides that, a non-profit organization, the National Student Clearinghouse founded by the higher education community was involved in streamlining the student record verification process for colleges and universities, students and alumni, lending institutions, employers and other organizations, in strict compliance with the Family Education Rights and Privacy Act, 1974. The only other country to have such a mechanism was Tanzania which had the Central Depositories Act, 2003 which was, however, meant for having a system for central handling of securities for the purpose of dematerializing.

1.9 The Committee was also informed that most of the universities in advanced countries like UK and USA maintained awards and certificates in electronic form and the services of issuing transcripts, online verification of awards etc. were made available to students on internet. Many private agencies were also involved in offering of services of verification of authenticity of certificates etc. for students and employers. However, Indian Universities were not well-equipped for this purpose. It was also emphasized that in our country, it was very difficult to ensure unified national database through voluntary persuasion and, accordingly, the legislation had been proposed.

**1.10 The Committee welcomes the proposed legislation having the laudable objective of maintenance of a national database of academic awards in electronic format by an identified registered depository. This would evolve as a credible, authentic and easily accessible mechanism for access to and verification of academic awards, thereby putting an end to the present cumbersome and time-consuming process of verification/authentication of degrees/certificates. The Committee believes that with the coming into effect of the proposed legislation, the interests of students as well as employers would be served well. Also, the menace of rampant usage of fake certificates in the academic sphere would be curtailed to an extent. The Committee feels that by bringing such a legislation, the first of its kind in the world our country would act as a role model for other countries to follow. Gradually, with**

**the kind of high level of IT expertise available indigenously, India can become a hub for such kind of exchange of information in the world.**

## **II. CONSULTATION PROCESS**

2.1 The Committee was informed by the Department that the legislative proposal was referred to various Ministries/Departments, namely, Home Affairs, Expenditure, Financial Services, Agricultural Research and Education, Textiles, Health and Family Welfare, AYUSH, Information Technology, Environment and Forests, Legal Affairs and Legislative Department. Planning Commission, UGC, AICTE and CBSE were also consulted. On a specific query about any reservations expressed/suggestions given by the Ministries/Departments, the Committee was informed that in the inter-Ministerial consultations, no Ministry had opposed the proposed legislation. The Ministries of Textiles, Environment and Forests, Science and Technology and the Departments of AYUSH and Information Technology had supported the proposal. Planning Commission had conveyed its 'in principle' approval. However, on an analysis of the feedback given by the authorities, the Committee observes that some very pertinent issues about the viability of the proposed legislation were raised by the Planning Commission, CBSE and the Council of Boards of Secondary Education and also the Ministries of Finance and Information Technology. Need for a new Act covering academic instruments, affordable user-charges, a clear-cut regulatory framework for the National Academic Depository, acceptance by all the States/academic institutions, financial implications for all concerned, adjudication of cases connected with NAD under the IT Act were the main concerns raised.

2.2 On being asked about consultation with State Governments, the Committee was informed that the legislative proposal was discussed at the 57<sup>th</sup> meeting of the Central Advisory Board of Education (CABE), the highest body to advise the Central and State Governments in the field of education, held on 19 June, 2010. The meeting was attended by Ministers-in-charge of Education from various States and all States had concurred with the proposal. A perusal of the list of State Ministers attending the CABE meeting, however, reveals that there was no Minister from the States/UTs of Bihar, Jharkhand, Tripura, Daman and Diu and Lakshadweep. Not only this, Ministers from West Bengal, Maharashtra, Odisha, Nagaland, Gujarat and U.P. either represented school education or higher/technical education. The Committee was also informed that comments of State Education Secretaries on the legislative proposal were sought on 9 June, 2010. While only four states, i.e. Kerala, Jharkhand, Punjab and Nagaland responded, no objection was received from any State. The legislative proposal was also discussed in the meeting of State Boards of School Education held on 3 August, 2010. The Committee observes that suggestions like issuing of duplicate certificates by the concerned Board/Council, deletion of clause relating to imposition of

penalty on academic institutions and sharing of revenue generated by NAD with institutions were raised in that meeting.

2.3 While UGC and AICTE were duly consulted and gave their concurrence, Committee's query about views, if any, received from other regulatory bodies elicited the response of the Department that no separate reference was made to regulatory bodies like the Medical Council of India, Dental Council, Nursing Council and the Council of Architecture. Justification given was that these bodies regulated professional education whereas the present proposal was entirely academic in nature.

2.4 The Committee was informed that with a view to have the opinion of experts on this policy initiative, the Ministry had constituted a Task Force under the Chairmanship of Prof. Sanjay Dhande, Director, Indian Institute of Technology (IIT), Kanpur, the other members of the Task Force being Prof. Debashis Chatterjee, Director IIM, Kozhikode, Prof. S.S. Mantha, Chairman, AICTE, Prof. Ved Prakash, Vice-Chairman, UGC, Shri Vineet Joshi, Chairman, CBSE, nominee of Ministry of Finance and AS&FA, MHRD. The legislative proposal was finalized, based on the recommendations made by the Task Force. Thereafter, the CBSE was entrusted with a pilot project in order to establish the Proof of Concept (POC). CBSE had awarded the pilot project for establishment of a National Academic Depository (NAD) to the Central Depository Services (India) Ltd. (CDSL) and National Securities Depositories Limited (NSDL). As part of the pilot implementation, CBSE had made available the academic awards of Central Teacher's Eligibility Test (CTET) 2011 and CBSE Board XIIth Standard Exam 2011 on the NAD Portals and had also requested all Heads of Institutions affiliated to CBSE to make use of this facility and send a feedback to the CBSE on the NAD system to further improve the system. As on 26 July, 2011, 7,94,074 records pertaining to Central Teachers' Eligibility Test, 2011 and 7,70,042 records pertaining to CBSE Board XII Standard Exam, 2011 had been uploaded by CBSE. The Committee was also informed that while 781 visitors had been reported on NAD Portal, Users registered were 279 and verifications done were 118.

2.5 The Committee observed that all the stakeholders were not involved in the consultation process. What was more a cause of concern was that this exercise could not be considered to be complete as response was not forthcoming from many of those consulted. The Committee, accordingly, made an attempt to elicit views from all concerned in the limited time available with it. The Committee started this exercise by issuing a Press Release on 22 October, 2011 for eliciting views and suggestions from the general public and stakeholders on the proposed legislation. Nine memoranda raising wide-ranging issues received from the stakeholders were forwarded to the Department for its comments. The Committee also approached all the State Governments/ UT

Administrations in order to ascertain their views/suggestions on the proposed legislation before it. However, this attempt of the Committee failed to yield the desired result as only seven State Governments/UT Administrations, i.e. Assam, Odisha, Nagaland, Maharashtra, Daman & Diu, Dadra & Nagar Haveli and Andaman & Nicobar Administration came forward with their feedback. While the proposed legislation was found acceptable by all these States/UTs, its financial implication, keeping in view availability of limited resources, was pointed out as a cause of concern by the State Governments of Odisha and Nagaland.

2.6 Besides holding initial deliberations with the Secretary, Department of Higher Education on 23 November, 2011, the Committee heard the views of Chairman, CBSE, Chairman, UGC and Chairman, AICTE. The Committee also had the opportunity to interact with the Director, IIT Kanpur who had submitted the Concept Paper and also was the Chairman of the Task Force constituted for giving recommendations based on the Concept Paper for formulating the legislation. Representatives of SEBI, NSDL and CDSL also appeared before the Committee and gave an idea about the functioning of the two securities depositories which were envisaged to take up the role of the proposed academic depository. Keeping in view, the increasing participation of private sector in higher education, the Committee felt that their views were also very relevant so far as the proposed legislation was concerned. The Committee, accordingly, interacted with representatives of Association of Indian Universities, Council of Indian Universities, Education Promotion Society of India and also Sarthak Advocates and ICICI Bank. The proposed legislation was considered a welcome step by all the stakeholders appearing before the Committee. However, some very relevant and specific suggestions for bringing out modifications in the proposed legislation were also placed before the Committee. Finally, the Committee held a meeting with the representatives of the Department for seeking clarifications on certain pertinent issues raised by the stakeholders as also those identified by the Committee. All these interactions not only gave the Committee a better insight for having an understanding of the various provisions of the Bill but also enabled it to formulate its observations and recommendations in the right perspective.

**III.** Committee's observations/recommendations on various clauses of the Bill are given in the succeeding paragraphs:-

**Clause 2 : APPLICATION OF ACT**

3.1 Clause 2 makes provision for application of Act. It provides that the proposed legislation shall apply to all academic institutions specified in the Schedule.

3.2 The Committee notes that this clause states that the Bill would apply to all academic institutions specified in the Schedule. However, a perusal of the Schedule reveals that it contains a

list of 39 bodies which conduct school ending examinations which includes, besides the Central Board of Secondary Education, Council for the Indian School Certificate Examination and National Institute of Open Schooling, various State Boards as well as State Open Schools. **However, applicability of the proposed legislation extends to institutions imparting higher education also. The Committee is of the view that reference to the Schedule is confusing and is likely to cause complications.**

3.3 On clarification being sought in this regard, the Department replied as under:

*" The term 'Schedule' mentioned in the Definitions clause 3(1)(c) of the Bill defines an academic institution to mean a higher education institution or body in secondary education conducting examination at the conclusion of class tenth or class twelfth specified in the Schedule. However, clause 9 of the Bill makes it mandatory for all academic institutions and not only those listed in the Schedule to lodge the academic awards issued by it with the National Academic Depository. Therefore, as rightly pointed out, clause 2 of the Bill has to be modified to read "This Act shall apply to all academic institutions."*

3.4 **The Committee is happy to note that its query about relevance of the use of the term 'Schedule' in clause 2 has been found justified and, accordingly, the clause is proposed to be modified. The Committee would, however, like to point out that the mention of Schedule in clause 3(1)(c) in the definition of the term 'academic institution' was not objected to by it. Also, the Committee is well aware of the fact that academic awards issued by all academic institutions will have to be deposited with NAD on the enactment of the proposed legislation. Its reservations were specifically directed towards the use of the term 'Schedule' in clause 2.**

3.5 **The Committee would also like to point out that the list of bodies included in the Schedule needs to be considered indicative. It may so happen that a new State Board may be created or a new State Open School may come into being or those Boards/Schools listed at present may become non-functional. However, any such modification can be carried out only after the approval of the Parliament. The Committee is, therefore, of the view that a proviso as reproduced below may be added in clause 2 so as to facilitate modifications in the Schedule expeditiously:**

*"Provided that the Central Government may, as and when considered necessary, by notification in the Official Gazette, amend the Schedule"*

#### **IV. Clause 3 : DEFINITIONS**

4.1 Clause 3 deals with definitions. Clause 3(1)(b) defines the term 'academic award' as follows:

*"academic award" means any certificate or degree or diploma granted by a Board, Council, School, university or an academic institution or higher educational institution established by or under any law, for the time being in force, to do so;*

4.2 The Committee notes that as mentioned in clause 3(2), words and expressions used and not defined herein but defined in the Information Technology Act, 2000 or the General Clauses Act, 1897 and not inconsistent with this Act shall have the meanings respectively assigned to them in these two Acts. Committee's attention was drawn to the fact that the capitalized terms 'Board', 'Council' and 'School' included in the definition of the term 'academic award' were not defined in the Bill. However, a perusal of the IT Act, 2000 and the General Clauses Act, 1897 revealed that the three terms had not been defined therein. The Department in this regard clarified that this was a drafting mistake and the terms Board, Council and School need not be capitalized and this would be corrected in consultation with the Law Ministry.

4.3 Another ambiguity brought to the Committee's notice was lack of cross reference to the Schedule in the definition of the term 'academic award' which would lead to certain amount of linguistic ambiguity. Response of the Department was that a cross reference to the Schedule in Clause 3(1)(b) would be incorporated in consultation with the Law Ministry. **The Committee finds merit in the objection raised with regard to inclusion of definition of the terms 'Board', 'Council' and 'School' in the Bill. Even after a reference to the Schedule in clause 3(1)(b), inclusion of definition of the terms 'Board', 'Council' and 'School' will make things very clear. The Committee, accordingly, recommends that the definitions of these terms may be included under the Definitions clause.**

4.4 Another suggestion made to the Committee was that when awards/certificates were to be deposited in the NAD, marks-sheets should also be included as they were also an equally important document. It was clarified by the Department that all academic institutions starting with secondary boards upwards including universities shall be obligated to lodge in the NAD and this would include marks-sheets also. **The Committee believes that there should be no confusion and ambiguity about such basic details with regard to documents to be deposited in the Depository, be it award/degree/diploma. The Committee, therefore, recommends that there should be a specific mention of the term 'marks-sheet' under the definition of the term 'academic award'.**

4.5 Committee's query about consultation with regulatory bodies like Medical Council of India, Dental Council, Nursing Council and the Council of Architecture elicited a nil response from the Department. In addition, it was also clarified that these bodies were regulating professional education whereas the present proposal was entirely academic in nature. **The Committee has serious reservation on the clarification given by the Department. Not only this, the Committee would also like to draw attention to other categories of professional education being mandated by regulatory bodies like Institute of Chartered Accountants of India, Institute of**

**Cost and Works Accountants of India, Institute of Company Secretaries of India, Institution of Electronics and Telecommunication Engineers etc. From this, it implies that such awards or certificates or degrees or whichever name the professional qualification earned is known as will not be eligible for lodging in the NAD. Such an approach is likely to lead to a situation when an individual holding very high professional qualifications will stand deprived from taking benefit of facilities available at NAD while seeking employment or for further education in India or abroad. In a way, prospective employers will also not be in a position to take services of highly qualified professionals. The Committee strongly feels that there appears to be no justification in excluding the professional education from the purview of this legislation. Awards/certificates/degrees, whether academic or professional need to be treated equally, keeping in view the interests of students/professionals as well as employers. The Committee, therefore, strongly advocates the need for inclusion of professional awards such as medical, engineering, architecture, nursing, dental, chartered accountancy, company secretary and so on under the proposed legislation. The definition of 'academic award' may be modified accordingly so as to cover all such recognized professional qualifications. If need be, separate definition for such qualifications may be formulated.**

4.6 Clause 3(1)(c) provides for the definition of the term "academic institution" which reads as follows:-

*“academic institution” means a higher educational institution or a body in secondary education conducting examinations at the conclusion of class tenth or class twelfth specified in the Schedule”*

4.7 The definition of the term 'academic institution' is applicable with respect to two categories of educational institutions, school level and those beyond school level. So far as school level certificates are concerned, academic institution would include a body in secondary education conducting examinations at the conclusion of class tenth or class twelfth specified in the Schedule. The Committee observes that this list contains names of 39 boards/councils/schools, both Central and State level. Committee's attention has been drawn by Foreign School Boards like the International Baccalaureate Organization operating in the country which do not find a mention in the Schedule containing a list of Indian School Boards.

4.8 When asked to clarify, the Department submitted that foreign boards cannot be mandated by Indian Laws to mandatorily lodge their awards with NAD, but they could lodge their awards on their own volition and the Bill does not prevent them from doing so. The Committee also notes that there is another foreign authority, i.e. International General Certificate of Secondary Education under the Cambridge International Examination operational in the country. A considerable number

of schools spread across the country are imparting school education to Indian students through these international set-ups. While a large number of students of such international boards go abroad for further studies, it is also equally true that quite a few students seek admission in Indian universities. To protect their interests as well as those of employers, their school-leaving certificates also need to be deposited in NAD. **The Committee, accordingly, recommends that a proviso specifying that foreign boards conducting school leaving examination through duly, recognized schools in the country will also have the option to lodge their awards with NAD may be incorporated in the definition of the term 'academic institution'.**

4.9 Clause 3(1)(i) deals with the definition of the term 'diploma' which reads as follows:-

*“diploma” means such award, not being a degree, granted by a higher educational institution certifying that the recipient has successfully completed a course of study of not less than nine months duration.*

4.10 The Committee was informed that the definition of the term 'diploma' is linked to the definition of the term 'higher educational institution' which is defined *inter alia* to mean an institution of learning imparting higher education beyond twelve years of schooling, leading to the award of degree or diploma. This definition is restrictive to the extent that there may be diplomas of less than nine months in duration, particularly in the field of vocational education. Such diplomas of not less than nine months duration would not be covered. Further, as per this definition, a diploma obtained prior to the completion of twelve years of formal schooling would not be covered under the Bill.

4.11 A very large number of Industrial Training Institutes have been set up in different parts of the country by Central and State Governments which provide training of different durations from one year to three years to students who have passed class tenth examination. However, the Committee was constrained to note that keeping in view linking of higher educational institutions with giving of diplomas, diplomas granted to tenth pass students would remain outside the ambit of the proposed legislation. Committee's query in this regard elicited a very discouraging response from the Department whose stand was that there appeared to be no need to revisit the definition of the term, 'diploma'. It was emphasized that diploma is for any course of not less than nine months duration and granted by a higher educational institution. Diplomas granted by any other institution would not be covered. Diploma obtained prior to completion of 12 years of formal schooling was also not covered by the provision of the Bill.

**4.12 The Committee is of the considered view that one of the main purpose of setting up of the National Academic Depository is to facilitate the student community by maintaining/storing electronic form of awards, easy access to the awards, and making**

authentication a less cumbersome process. The Committee reiterates that all kinds of awards, be it professional or technical should be covered under the Bill. The Committee notes that in the Concept Paper for the setting up of NAD, the certificates earned by students in ITIs and other institutions form the basis of the legislative proposal. Moreover, the duration of diploma should not be restricted so long as it imparts vocational education and gainful employment to an individual. The Committee is also aware that many of the diplomas are issued by institutions which fall under the domain of other Ministries/Departments. One such example is that of ITIs which are set up under the Ministry of Labour. Likewise State Governments also set up institutions which conduct short term diploma courses. Like in the case of academic awards, where degrees/certificates conferring professional qualifications have also to be brought under the ambit of NAD, the same analogy should be made applicable in the case of diplomas. In case, lodging of such diploma certificates in NAD involves procedural complications, the Department can easily act in coordination with these Ministries/Departments/State Governments and find out a solution as ultimately it is for the benefit of students and employers.

#### **V. Clause 4: APPOINTMENT OF NATIONAL ACADEMIC DEPOSITORY**

5.1 This clause provides for appointment of the National Academic Depository. It provides that the Central Government shall, by notification, appoint a depository to act as the "National Academic Depository" on such terms and conditions as may be prescribed for the purpose of establishing and maintaining the national database of academic awards in electronic format.

5.2 It further provides that no depository shall be appointed as the National Academic Depository unless (i) it is a depository having a certificate of registration as such under sub-section (IA) of section 12 of the Securities and Exchange Board of India Act, 1992 or is a fully owned subsidiary of such depository; (ii) it has, in its memorandum of association, specified provision of depository services for academic awards as one of its objects; and (iii) it fulfils such other terms and conditions as may be prescribed.

5.3 It also provides that the National Academic Depository appointed under sub-clause (1) shall not commence its operations unless it is so authorized, in writing, by the Central Government. It also provides that the Central Government shall not authorize commencement of operations unless it is satisfied that the National Academic Depository fulfils the conditions laid down under sub-clause (4) and before authorizing for commencement of operations, the Central Government may cause to be undertaken, physical verification of the provision of systems, safeguards, mechanisms, manual and facilities by the National Academic Depository.

5.4 It also provides that the Central Government shall undertake the review of the functioning of the National Academic Depository, on expiry of a period of ten years from the date of notification under sub-clause (1), and if (i) it is satisfied with the functioning of the National Academic Depository, may renew the appointment of such Depository for a further period of ten years; or (ii) it is not satisfied with the functioning of the National Academic Depository, may revoke the appointment of such Depository and the provisions of sub-clauses (2), (3), (4), (5), (6) and (7) of clause 6 shall apply accordingly.

5.5 The Committee observed that the mandatory eligibility criteria for an Academic Depository is its registration under section 12 (1A) of the Securities and Exchange Board of India Act, 1992. In view of very obvious distinct features of depositories dealing with securities and those dealing with academic awards, clarifications were sought from the Department in this regard. Response of the Department was that the data to be handled and maintained by NAD was extremely crucial and sensitive. It was, therefore, imperative that the task was performed by a credible entity, having the requisite experience and mandatory certifications and that the field was not left open to just anyone who may not have the competence to deliver. Accordingly, it was felt that such entities must be registered with SEBI which followed stiff norms and ensured that the prescribed criteria was fulfilled. It was also mentioned that registration under the SEBI Act was merely one of the pre-conditions for the depository to be eligible to be appointed as NAD. In its memorandum of association, the depository should have depository services for academic awards as one of its objects.

5.6 Doubts raised by the Committee about the viability of a Depository of securities or its subsidiary functioning as an academic depository were sought to be allayed by the response of the Department that before undertaking the operations of NAD, the registered entity would also have to obtain permission from SEBI and it would ensure that the NAD was under necessary control and supervision of SEBI as well as the Government. It was also mentioned that SEBI would not have any role to play in the selection, appointment or monitoring of the performance of the NAD which were adequately covered under the proposed legislation. It was assured that with a separate legislation in place to govern operations and conduct of NAD and the entities interfacing with it, any likely complication would be addressed.

5.7 In order to have a proper assessment about the appointment of a depository as the National Academic Depository fulfilling the eligibility criteria of being registered under the SEBI Act, and any likely complications arising as a result in future, the Committee made an analysis of the criteria laid down under the SEBI Act, 1992 and the SEBI (Depositories and Participants) Regulations for

registration of a depository as also the work handled by the Securities depository and to be handled by NAD.

5.8 Section 12(1A) of the Securities and Exchange Board of India Act, 1992 reads as follows:-

*No depository, participant, custodian of securities, foreign institutional investor, credit rating agency or any other intermediary associated with the securities market as the Board may by notification in this behalf specify, shall buy or sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act.*

The Committee observes that the term 'Securities' as defined under clause 2(h) of the Securities Contracts (Regulation) Act, 1956 includes shares, scrips, stocks, bonds, debentures, Government securities etc. 'Academic Award' is not a security as defined under the Securities Contracts (Regulation) Act, 1956. The Depository registered with SEBI interfaces with Securities Market Participants which include Stock Exchanges, Clearing House/Clearing Corporation of Stock Exchanges, Depository Participants, Issuers/Registrar and Transfer Agents and Investors. In contrast, National Academic Depository will interface with Universities, Boards, Academic Award Holders, Entities authorized to verify academic awards and Depository Agents and prospective employers.

5.9 The Committee notes that the following entities are authorized to be registered as a depository under the SEBI (Depositories and Participants) Regulations, 1996:

- a public financial institution (section 4A of the Companies Act, 1956)
- a bank included under the RBI Act, 1934 (Second Schedule)
- a foreign bank operating in India with the approval of RBI
- a recognized stock exchange
- a body corporate engaged in providing financial services with not less than 75 per cent equity capital by any of the institutions indicated above, jointly or severally securities business
- a body corporate involved constituted or recognized in a foreign country and approved by the Central Government.
- an institution providing financial services established outside India and approved by the Central Government.

In other words, any entity or its subsidiary dealing with securities or providing financial services, functional in the country or those operating outside the country would fulfill the eligibility criteria for being appointed as the National Academic Depository. The Committee was given to understand that the objective behind bringing NAD under the SEBI Act was to ensure that NAD had prior experience and the requisite technical, managerial and financial expertise to provide the services and discharge the mandated functions.

5.10 When asked about the viability of a Depository of Securities or its subsidiary functioning as an academic depository, the Committee was informed that CBSE had awarded a pilot project for establishment of a National Academic Depository to the Central Depository Services (India) Ltd. (CDSL) and National Securities Depositories Ltd. (NSDL). In this pilot project, CDSL and NSDL were providing an interface to various agencies intending to verify online whether an academic qualification has been issued by CBSE. As part of the pilot implementation, CBSE had made available the academic awards of Central Teachers Eligibility Test (CTET) 2011 and CBSE Board XII standard Exam 2011 on the NAD portals. All Heads of Institutions affiliated to CBSE had been requested to make use of this facility and send a feedback to the CBSE on the NAD System.

5.11 The Committee was informed that 7, 94, 074 records were deposited on the CTET 2011 and 7, 70, 042 records were posted on the CBSE Board XII standard Exam 2011, upto 26 July, 2011. However, so far as using the services of these two pilot projects was concerned, only 781 visitors were reported on the NAD portal, with users registered being only 279 and verifications done only in respect of 118 entries. Committee's attention was also drawn to the constitution of an Evaluation Committee for evaluating these pilot projects. Representatives of IIT Mumbai, BHU Varanasi, Delhi University and CBSE were there on the Evaluation Committee.

**5.12 The Committee observes that this Evaluation Committee is yet to give its report. During its deliberation with the representatives of the Department on 27 January, 2012, the Committee was given to understand that it would take about one month's time for the Evaluation Committee to give its report. The Committee feels that the Evaluation Committee having experts from academic world as its members is best suited for giving its recommendations on the viability of Securities Depositories handling the work of Academic Depository. The Committee hopes that its recommendations as and when received would prove very useful for this new venture.**

5.13 Another area of serious concern for the Committee is the element of ambiguity so far as the supervisory mechanism envisaged for the functioning of NAD is concerned. Clause 4(1) simply states that the Central Government shall be the appointing authority for NAD. As indicated in sub-clause (5), the Central Government before authorising the commencement of operations, may cause to be undertaken physical verification of the provision of systems, safeguards, mechanisms, manual and facilities specified in sub-clause (4). **The Committee is of the opinion that this provision lacks clarity as it merely mentions the Central Government as the regulatory authority. The regulatory authority is an important aspect of the proposed legislation and it should be specifically provided for therein. Even the Planning Commission has pointed out that no clear cut regulatory framework has been suggested for regulating the functioning of NAD or**

the national data base. This needs to be factored into the legislation *ab initio* to avoid any confusion. The Committee finds the following response of the Department to the reservations of the Planning Commission totally unconvincing:

*"Regulatory framework is adequately provided for in the legislation in clauses 4, 15, 26, 27, 28 and 29. These clauses are meant to ensure that NAD functions as per the directions of the Central Government. Despite these clauses, in case NAD fails to discharge its functions as expected, clause 6 provides for the revocation of appointment of NAD."*

**5.14** The Committee would like to point out that clause 15 relates to Accounts and Audit of NAD, clause 26 is about crediting sums realized by way of compensation or penalty or fine to Consolidated Fund of India, clause 27 relates to returns and information to be provided by NAD, clause 28 is about power of Central Government to give directions and clause 29 relates to power of Central Government to inspect. Suggestion of the Planning Commission which the Committee fully supports pertains to having a well-defined and structured regulatory framework in the legislation itself. Auditing of Accounts, crediting of sums in the Consolidated Fund, filing of returns and other information, directions of Government and inspection of NAD cannot be considered an alternative to a proper regulatory framework.

**5.15** Committee's attention has been drawn to the fact that along with the criteria for registration under the SEBI Act, the National Academic Depository will have to have in its memorandum of association, specified provision of depository services for academic awards as one of its objects. The Committee, while appreciating the inclusion of a specific condition keeping in view the distinct features of academic awards vis-à-vis securities, would like to draw the attention towards section 11 of the SEBI Act whereunder SEBI Board has been entrusted the function of registering as well as regulating the working of the depositories. Thus, every depository registered under the SEBI Act or its subsidiary including that dealing with academic awards will be under the regulatory framework laid down by SEBI Board.

**5.16** Committee's doubts about viability of such an entity operating under two separate Acts are strengthened by the conflicting response received from the Department. It has been informed that before undertaking the operations of NAD, the registered entity will also have to obtain permission from SEBI and it will ensure that NAD is under necessary control and supervision of SEBI as well as the Government. It has also been given to understand that SEBI has no role to play in the selection, appointment or the monitoring of the performance of NAD as the same are adequately covered under the proposed legislation

**5.17** The Committee is of the view that this legislation should specifically provide for a regulatory authority which could comprise of experts or representatives from the field of

**education, information technology, finance and the representative of the Ministry of HRD. This regulatory framework can be easily evolved on the lines of the framework of SEBI Board provided in the SEBI Act. Since this Bill specifically deals in the academic awards, degrees etc., it should have the regulators primarily from the field of education along with technology experts to take care of the technical aspects.**

5.18 Response received from the Department on the Committee's query about NSDL and CDSL not set up through an Act of Parliament and NAD proposed through an Act of Parliament throws some light on the issue of regulatory framework for NAD, although in an indirect manner. Committee was informed that the primary objective was to make lodging of academic awards by academic institutions mandatory and creation of NAD through an Act was therefore a corollary to the primary objective. Committee's attention was also drawn to a parallel available in the shape of the Central Identity Data Repository through the National Identification Authority of India Bill, 2010.

5.19 A perusal of both these Bills reveals that both seek to provide for maintenance of database and for verification and authentication thereof- one for academic awards and the other for identification number of individuals residing in the country. However, there is a major difference. The NIAI Bill envisages the setting up of a National Identification Authority, giving its composition and outlining the qualifications, terms of office and other allied aspects and also powers and functions of the authority. One of its functions is establishing, operating and maintaining of the Central Identities Data Repository. Both the National Identification Authority and the Central Identities Data Repository have been assigned a very crucial mandate and will be working in direct and close collaboration with each other.

5.20 The Committee observes that the data to be handled and maintained by the National Academic Depository and the Central Identities Data Repository is crucial and sensitive, rather it is more sensitive in the case of the Central Identities Data Repository. **When a National Identification Authority can be mandated for establishing, operating and maintaining of a Central Repository, a similar Authority can very well be mandated to have the responsibility of handling the affairs of National Academic Depository. The only hurdle is the use of terminology. However, the National Academic Depository can very well be called National Academic Repository. As informed by the Department, the two terms are actually synonyms for each other and their dictionary meaning is also the same. The contention that usage of the term 'Depository' has been made only because it is legally defined does not seem to be a convincing and need not be considered binding. The Committee would like to point out that**

by replacing the term 'depository' by the term 'repository', compulsion of NAD being registered under the SEBI Act will also not be there.

5.21 The Committee would also like to draw attention to the Concept Paper on the Electronic Depositories of Academic Certificates prepared by Shri Sanjay G. Dhande, Director, IIT, Kanpur which forms the basis of the proposed legislation. This Concept Paper also talks about a National Academic Instrument Depository which will be similar to the depositories of financial instruments. It also mentions that the composition of such an organization/corporation will be spelt out in the Act. As suggested in the Concept Paper, a Task Force under the Chairmanship of Shri Sanjay G. Dhande was set up to give its recommendations for the legislative proposal. Committee's attempts to procure a copy of the recommendations of the Task Force failed to materialize. However, a copy of the minutes of the second meeting of the Task Force held on 15 February, 2010 was made available by the Department. Para 6 of minutes of this meeting reproduced below is very pertinent in the present context:

*"While the SEBI Act, 1992 provides for registration of depositories and the Depositories Act, 1996 provides a legal mandate detailing the obligations and duties as well as the structure under which the depository is to operate the said legislations apply to financial instruments only. In order to extend their applicability to academic instruments qualifications, the said legislations would require to be studied from the legal angle in order to consider if the said Acts would need to be amended in order to extend its applicability to academic institutes/qualifications and if so, the clauses to be modified/amended."*

5.22 The Committee also notes that both UGC and AICTE, while concurring with the registration of academic depository under the SEBI Act, have pointed out that the regulation of the functioning and all other incidental aspects of NAD must be regulated by the appointing authority under the Bill. It has been mentioned by these two authorities that the above division of function is justified as the Central Government/Ministry of HRD is much more familiar with the problem that is required to be addressed. The Association of Indian Universities is also of the view that NAD should be an independent body. The very fact that need for involvement of authorities concerned with academic matters has been upheld by all the stakeholders appearing before the Committee should put an end to any ambiguity in this matter. The Committee, accordingly, recommends that necessary modifications on the lines of National Identification Authority of India Bill, 2010 and SEBI Board constituted under the SEBI Act, 2000 may be brought about in clause 4 and other relevant clauses so that a proper regulatory framework for maintenance of a national database of academic awards entrusted to an independent authority and other allied functionaries is put in place.

5.23 Clause 4(6) provides that the Central Government shall undertake the review of the functioning of the National Academic Depository on expiry of a period of ten years from the date of notification. If the Government is satisfied of its functioning, it will renew the appointment of NAD for a further period of ten years and if not satisfied, it may revoke its appointment as envisaged under clause 6. Finding the period of review to be too long, attention of the Department was drawn to the desirability of inspection being carried out at a shorter interval. Response of the Department was that a period of ten years was considered adequate for review of the functioning of NAD and renewal of the appointment for a further period of ten years. The Committee finds no justification for resorting to revocation powers under clause 6 as it can be done after completing all the procedural formalities. It would be better to have a mechanism whereunder inspection is carried out at a shorter interval of five years and appointment is renewed for a period of five years only. The Committee, accordingly, recommends modification of sub-clause (6).

**5.24 The Committee would also like to point out that the eligibility criteria for the proposed National Academic Repository will have to be modified. Keeping in view the nature of items to be kept in the Repository, it would be prudent to engage authorities involved in the higher education sector. It can be a joint venture where well-established authorities/statutory bodies like UGC, AICTE, CBSE, Accreditation Authority, Central Universities/Professional Bodies along with those working in the IT Sector can be made the stakeholders for setting up the National Academic Repository and its functioning.**

## **VI. Clause 7: SEGREGATION OF ACTIVITIES AND BUSINESS**

6.1 This clause provides that where the National Academic Depository is carrying on any activity or business besides that of acting as depository for the national database, then National Academic Depository shall keep the activities relating to the business of academic depository separate and segregated from all other activities.

6.2 With the criteria of registration of NAD under section 12(1A) of the SEBI Act proposed to be deleted, requirement of clause 7 relating to segregation of activities and business would also not be there. **The Committee, accordingly, recommends deletion of clause 7.**

## **VII. Clause 8 : REGISTRATION OF ACADEMIC DEPOSITORY AGENT**

7.1 Clause 8 envisages that NAD shall register one or more academic depository agents, on payment of such charges as it may deem fit. In turn, ADAs would charge user fee from the customers for services they will provide on behalf of NAD. The clause also provides certain conditions for the appointment of ADA. As per Clause 8(4), the academic depository agent shall

provide, as the National Academic Depository may deem fit, one or more of the services to be provided by the National Academic Depository under clause 5 on its behalf.

7.2 The Committee observes that clause 5 enumerates ten services which are mandated to be provided by NAD. Out of these services, following services can be considered very significant:

- register academic institutions
- provide access to the national database for registered academic institutions
- provide efficient online verification of academic award
- ensure that the national database is accessible online to authorized persons.

In other words, an academic depository agent can function as a full-fledged Academic Depository, virtually replacing NAD. Not only this, there is not much clarity on the qualifications of ADAs. They may prove to be fraudulent and may have other motives.

7.3 On these apprehensions being brought to the notice of the Department, it was clarified that the extent of the work that NAD can outsource to ADAs would be at the discretion of NAD. The flexibility has been built in to ensure the volume of data to be handled etc. It has the freedom to engage ADAs which are envisaged to set up facilitation centres to issue transcripts and provide other services under the Bill. The existing Citizen Service Centres set up by Ministry of Information Technology, bank branches and educational institutions and interested private companies can be registered by NAD to act as Depository Agents. The appointment of academic depository agents by NAD is being provided to facilitate and decentralize the lodging of academic awards to ensure efficiency.

**7.4 The extent of delegation/outsourcing by NAD should also be re-examined to assess whether NAD should be enabled to potentially outsource all its functions. The Committee would like to emphasize that all the services of NAD cannot and should not be delegated to the ADAs, especially the core activities as these related to maintenance of data by NAD which is of a very sensitive nature. The Committee is happy to note that the pertinent issue about the viability of outsourcing the services entrusted to NAD to any number of Academic Depository Agents and its implications has been found acceptable by the Department which has agreed to review the same. The Committee also recommends that the Bill needs to provide more stringent criterion to be adopted by NAD while selecting and registering an academic depository agent. Regulatory bodies like UGC, AICTE and CBSE and even well-established academic institutions can function as ADAs. UGC, AICTE and CBSE with their regional/State offices and units and Universities having a well-knit set up of colleges can be considered the most effective ADAs, as they are well –equipped and well-conversant with**

**academic matters. The Committee, accordingly, is of the view that only such entities be made eligible to function as ADAs.**

**VIII. Clause 9 : MANDATORY LODGING OF ACADEMIC AWARD BY ACADEMIC INSTITUTIONS IN DEPOSITORY.**

8.1 This clause provides that every academic institution shall lodge with the National Academic Depository, in such form and manner as may be prescribed, all academic awards issued by it after the commencement of this Act, to all its students. Sub-clause (5) reads as follows:

*"The National Academic Depository shall be entitled to recover reasonable cost of training from each academic institution:*

*Provided that in case of any dispute, about the reasonableness of the cost of training, between the National Academic Depository or any academic institution, such dispute shall be referred to the State Educational Tribunal established under the Educational Tribunals Act, 2011, having jurisdiction, for adjudication:*

*Provided further that the decision of the State Educational Tribunal on the dispute shall be final and binding on all parties."*

8.2 It was clarified by the Department that proviso to Clause 9 (5) provided that any dispute on reasonableness of cost of training shall be referred to the State Educational Tribunal (SET) whose decisions would be final and binding. The parallel clause in the Educational Tribunal Bill 2011 was Clause 15(d) which provided for the SET to exercise powers and authority in relation to matters as may be assigned to it by any other law for the time being in force. The NAD Bill once enacted would assign disputes relating to training costs to SET for resolution.

**8.3 The Committee, while noting the reply furnished by the Department regarding adjudication of disputes to recover the cost of training by NAD from academic institutions by State Educational Tribunals would like to point out that the National Educational Tribunal as well as State Educational Tribunals have jurisdiction only pertaining to the higher educational institutions whereas the present legislation pertains to both the school boards/ councils as well as higher educational institutions which means that these Tribunals would not be having any control over the school boards and councils with regard to adjudication matters. The Committee observes that this is an inherent legal weakness in the implementation of this provision of the Bill. The Committee would also like to point out that the element of dispute with regard to reasonableness of training charges would not be there if training is imparted as per the prescribed rates. The Committee, accordingly, recommends that such rates can be prescribed through the rules to be made under this legislation.**

**IX. Clause 10 : DUTY OF ACADEMIC INSTITUTIONS**

9.1 This clause provides that it shall be the duty of every academic institution to verify, on a request made to it by the National Academic Depository within a period of seven days from the date of receipt of such request, any academic award purported to be, or have been, issued by it and included or proposed to be included in the national database of academic awards.

9.2 Divergent views were expressed by various Stakeholders / Associations regarding the period within which an academic award is to be verified by an academic institution. It was suggested that the time period of seven days be made to seven working days. It was also pointed out that in view of the advanced technology available, the time period be reduced to one day and instantly. Another viewpoint was that fifteen working days period would be required, while as per the assessment of another stakeholder, three months period was required.

9.3 On taking up this issue with the Department, the Committee was informed that the suggestion to provide this service through use of technology within a much shorter time frame was welcome. However, this time-period had been proposed as a measure of ample caution so that unnecessary stress and pressure was not created on the system leading to complications. While the system enabled authentication of certificates instantly, it was desirable to keep this time-period to provide for any contingencies.

**9.4 The Committee, while taking note of the views expressed by the experts/ stakeholders regarding the time period to be provided for the verification/ authentication of academic awards by NAD/ ADA from seven days as given in the Bill to that of seven working days or up to fifteen days or for three months, is of the opinion that the time of seven days as given in the Bill is somewhat long. The Committee, therefore, recommends that this time-limit of seven days may be reviewed after six months of commencement of the Act so that verification process is completed in shorter period.**

#### **X. Clause 11: LODGING OF ACADEMIC AWARDS BY ANY PERSON**

10.1 Clause 11 relating to lodging of academic awards by any person reads as follows:

*"Any person may request the National Academic Depository, in such form and manner as may be prescribed, to lodge the academic award received, prior to the commencement of this Act, by such person from an academic institution.*

*The National Academic Depository, on receipt of the request under sub-section(1), shall, after verification and authentication of such academic award from the academic institution which has issued such award, lodge it in the national database."*

10.2 Queries were raised by many witnesses and experts before the Committee about the manner in which old awards/ certificates will be registered, especially in the case of institutions no longer in existence and the criteria for verification. It was clarified by the Department that it was a service

provided to an individual for lodging an academic award in case he or she desired to maintain his awards online and in electronic form, for the awards he/she received prior to coming into force of this Bill. However, certificates issued prior to coming into force of the Bill could be lodged only after they were properly verified by NAD with reference to the Board/University which issued it. Only if NAD was satisfied about genuineness of such an award, it would be maintained. If the issuing Institution was no longer in existence, and the genuineness of award could not be verified then it would not be allowed to be maintained in the national database. It was also emphasized that there would be legal implication with respect to the implementation of the Law retrospectively, besides academic institutions may not be having necessary infrastructure to do so or the records with them may not be available in proper form.

**10.3 The Committee takes note of suggestions given by the various experts/ stakeholders and the response of the Department. The Committee is of the view that academic awards pertaining to previous ten years from the date of coming into force subject to their availability and proper verification should be mandatorily lodged with the academic depository as such persons would still be in the job / labour market and they may be benefitting from services envisaged under the proposed legislation.**

## **XI. Clauses 16 to 24: OFFENCES AND PENALTIES**

11.1 Chapter IV of the Bill deals with offences and penalties for contravention of various provisions. It provides for penalties for damage caused to the computer systems or network concerned with the national database by any person and in such case, the liability shall extend to levy of penalty which may extend to Rs. one crore. (Clause 16). In case of contravention in the discharge of duties and performance of functions by NAD or by academic depository agent, NAD shall be liable for penalty which may extend to Rs. 50 lakh for each instance of failure or contravention (Clause 17). An academic institution that fails to discharge its duties shall be liable for a penalty of upto Rs.5 lakh for each such instance of failure or contravention. (Clause 18) The adjudication of penalties in respect of persons shall be by the State Educational Tribunal and in respect of NAD or academic institutions shall be by the National Educational Tribunal. (Clause 19)

11.2 The Committee was given to understand that the penalties proposed in the Bill were patterned after the provisions of the Information Technology Act, 2000. The IT Act provides for a penalty of Rs. 1 crore for damage to computer, computer system (Section 43) which is similar to what has been provided in clause 16 of the Bill relating to compensation for damage to computer system. The quantum of penalties is the stiffest in case of the offence of not providing data on revocation of appointment or wrong certification by NAD (Rs.10 crore or imprisonment of ten

years) which is the most serious offence. In case of failure to discharge the duties or provide the required services, it is Rs. 50 lakh which is considered deterrent enough as it could be in addition to prosecution. The Committee observes that the offences prescribed under sections 65 and 66 of the IT Act in respect of hacking and tampering etc. shall be applicable to offences under clauses 20 and 21. Besides, if NAD fails to provide the records on revocation of its appointment or wrongly certifies the records so provided, the promoters, directors, managers etc. of NAD shall be liable for imprisonment upto ten years and with fine which may extend to Rs. 10 crore under clause 22. Committee's attention was also drawn to chapter VI A of the SEBI Act which provides for penalties and adjudication. In most cases, the SEBI Act prescribes a penalty of upto Rs. 1 crore, the maximum being Rs. 25 crore for insider trading.

11.3 The Committee observes that specification for various contraventions and offences and criteria for fixing of quantum of penalty and imprisonment term are broadly based on similar provisions enshrined in the IT Act and the SEBI Act. Besides that, offences under Clause 16, 17 and 18 being primarily civil in nature, are proposed to be dealt with by the National Educational Tribunal. However, offences under clauses 20 to 24 relate to offences by companies, societies and trusts, which are punishable by imprisonment as well, are proposed to be dealt with by the relevant Criminal Courts.

11.4 The Committee, while agreeing with the intention behind the imposition of heavy penalty and harsh imprisonment term in view of nature of contraventions and offences and also supported by similar provisions in the IT Act and the SEBI Act, has some reservations on certain provisions and implications thereof. **The first problem area noticed by the Committee is the National Educational Tribunal being made the adjudicating authority for cases relating to damage to computers, computer system etc. (Clause 16), penalty for contravention by NAD/Depository Agent (clause 17) and penalty for academic institution (clause 18). The Committee observes that the National Educational Tribunal/State Educational Tribunals are proposed to be set up for effective and expeditious adjudication of disputes involving teachers and other employees of higher educational institutions and other stakeholders (including students, universities, institutions and statutory regulatory authorities) and to adjudicate penalties for indulging in unfair practices in higher education.**

11.5 On a specific query about the authority of Educational Tribunal to deal with cases under the proposed legislation, the Committee was informed that clauses 15(d) and 31 (e) of the Educational Tribunals Act allow State Educational Tribunal and National Educational Tribunal respectively to exercise power and authority in relation to any matter as may be assigned to it by any other law for

the time being in force. Accordingly, the NAD Bill, once enacted, will assign matters under clauses 16, 17 and 18 to the NET along with matters under clause 9 to SET for adjudication.

**11.6 The Committee would like to point out that the National Educational Tribunal as well as the State Educational Tribunals are envisaged to be given the mandate to handle cases relating to higher education sector. This is clearly borne out by the Statement of Objects and Reasons to the Educational Tribunal Bill, 2010 which specifies that the legislation proposes to establish a two-tier structure of Educational Tribunals at national and state level to adjudicate on the entire gamut of disputes arising in the higher education system through a fast track, speedy recourse to justice delivery. The Committee fails to comprehend the applicability of a legislation dealing with higher education being entrusted the power to handle School Boards related cases also. The Committee, accordingly, recommends that clause 19 enabling the National Educational Tribunal to handle matters under clauses 16, 17 and 18 needs to be reviewed. Such a provision cannot be considered legally tenable.**

**11.7 Another drawback noticed by the Committee relates to clause 16 on compensation for damage to computer, computer system etc. The Committee observes that this clause is identical to clause 43 of the IT Act. Both the provisions impose penalty for various unauthorized acts of a person causing damage to computer, computer system etc. The Committee finds that sub-section (h) of section 43 of the IT Act as reproduced below is missing in clause 16 of the Bill:**

*“43(h) charges the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system or computer network.”*

**The Committee feels that the above provision should also be incorporated in clause 16 of the Bill. The other problem-area pertaining to clause 16 which has drawn the attention of the Committee is the need for making the adjudication mechanism available under the IT Act applicable on clause 16 as done in the case of clauses 20 and 21. This can be easily done by making a reference to section 46 about power to adjudicate of the IT Act, 2000 in clause 16 as done in clauses 21 and 22.**

**11.8 A comparative analysis of clause 21 of the Bill and section 66 of the IT Act, 2000 reveals that both the provisions relate to offence of hacking into national database. However, sub-section (1) of Section 66 of the IT Act, 2000 which reads as follows has not been included in the Bill:**

*(1) Whoever with the intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or any person destroys or deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means, commits hack;*

**The Committee strongly feels that in order to have more clarity, the above provision should also be incorporated in clause 21 of the Bill. When section 43 of the IT Act, 2000 can be reproduced as clause 16 in the present Bill, the same approach should have been adopted with regard to clauses 21 and 22 as well.**

## **XII. Clause 25: COGNIZANCE OF OFFENCES**

12.1 Clause 25 relating to cognizance of offences lays down that no court shall take cognizance of any offence punishable under the Bill or the rules made thereunder, except on a complaint made by the Central Government/State Government/NAD/any officer or person authorized by the Central Government/State Government/NAD. Rationale for having such a provision is not clear. The Committee is of the view that such a provision would prove to be restrictive if an academic institution has a genuine grievance against NAD or the Central Government. In such a situation, as a matter of natural justice, one should not be denied judicial relief. **The Committee would also like to point out that in view of educational institutions and employers spread across the country, access to judicial courts should not be debarred because this will limit their access. Clause 25 may, accordingly, be suitably modified. The Committee also observes that offences under clauses 20 and 21 are to be dealt with under the IT Act (Sections 65 and 66) which does not have a provision like clause 25. Under the IT Act, any person aggrieved by the decision of Cyber Appellate Tribunal can appeal to the High Court.**

## **XIII. Clause 28: POWER OF CENTRAL GOVERNMENT TO GIVE DIRECTIONS**

13.1 Clause 28 lays down that the Central Government would have the power to give directions on questions of policy to NAD from time to time. However, NAD will not get any opportunity to express its views before giving of such a direction by the Central Government. The Committee finds this provision to be somewhat unjustified. NAD along with depository agents and institutions/universities/school/boards will be responsible for handling the entire operations for creation of a national database and providing access thereto. **The Committee, accordingly, recommends that under clause 28, NAD should be given an opportunity to give its view before issuance of any direction on question of policy by the Central Government.**

## **XIV. MISCELLANEOUS**

14.1 During the course of deliberations with various stakeholders, a number of issues were raised which, though not directly related to the proposed legislation before the Committee, were very relevant and crucial. The Committee is of the view that these issues, if addressed in the right

perspective, will go a long way in strengthening the proposed legislation. Committee's observations on some of the most important issues are given below:

(i) **Mechanism for maintaining a database on caste certificates issued to students.**

14.2 The Committee observes that under our existing education system both at the school level and higher education, reservation policy for students belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes and also from economically weaker sections of society plays a very vital role in making the reach of educational facilities possible for such students. Specially in the higher education sector, specified number of seats in institutions are earmarked for such students. However, in the recent times, quite a few instances of misuse of this special facility by unscrupulous elements have been reported from some premier institutions of the country. Chances are there of quite a few similar incidents going unreported. Against such a backdrop, the Committee felt that there was a need for having a mechanism whereunder information on the authenticity of caste certificates is made available to all concerned.

14.3 On this issue being raised with the Department, the Committee was informed that issue/authentication of caste certificates was outside the purview of the Bill as it was the function of State Governments and its nominated authorities. These subjects not being with the Ministry of HRD as per Allocation of Business Rules, the Ministry cannot make any legislation pertaining to such subjects.

**14.4 The Committee is not fully convinced with the contention of the Ministry. The Committee is of the view that this issue can be very easily handled by seeking the assistance of the nodal Ministry i.e. Ministry of Social Justice and Empowerment. Information available with that Ministry can be put on the website of NAD by having linkage/connectivity with their website. Such an initiative will go a long way in curbing the instances of misuse in the admission for reserved categories of seats.**

(ii) **School level Certificate**

14.5 Apart from the performance of students in the school leaving examination, their performance in sports, NCC, NSS and performing arts and other activities also serve as a benchmark for getting admission to different Graduate Courses. **The Committee finds that across the country in a very large number of universities and institutions, there is a fixed quota of students who have excelled in such activities for admission in higher education courses. Extra weightage is given to such students so that they get admission in colleges in spite of not fulfilling eligibility criteria so far as their academic record is concerned. Therefore, such**

awards/certificates are very important and also need to be given similar treatment when compared with academic awards. The Committee, therefore, feels that such certificates/awards should also be brought under the National Academic Depository. Modification in the relevant clauses may accordingly, be carried out. This will also help in curbing misuse of this facility by using fake certificates.

(iii) **Information about fake universities/institutions/degrees/certificates**

14.6 One concern which was raised by almost all the stakeholders was the menace of fake universities/institutions functioning in the country without any hindrance. Instances of students being duped by such universities/institutions keep on being reported in media. The Committee is aware that the law is being strengthened so as to put a stop to such unscrupulous activities. But simultaneously, it is equally important if student community and their guardians are also made aware and remain alert. It is a well-established fact that prevention is always better than cure.

14.7 On this matter being taken up with the Department, it was clarified that since only authorized institutions can upload their data on the NAD database, fake Boards/Institutions cannot become the users. However, assurance was given by the Department that NAD would be asked to display on its website the names of fake Boards/Institutions. **The Committee observes that UGC is already maintaining a list of fake universities on its website which can very well be maintained on the website of NAD. The Committee is also of the view that simultaneously a list of recognized universities, institutions, schools, boards etc. authorized to award degree, diploma, certificates etc should also be made available on the NAD website. The Committee strongly feels that such a move will prove beneficial for our young students. The Committee would also take this opportunity to point out that deterrent steps need to be taken by all concerned to curb the menace of fake universities /institutions. It is high time that the Central Government takes a pro-active role in this direction.**

(iv) **Status of degrees/certificates awarded by foreign universities/institutions.**

14.8 Many stakeholders appearing before the Committee drew its attention to a large number of foreign institutions operating in India which awarded either on their own or under various kinds of arrangements with Indian Institutions degrees/diplomas to students in India. It was felt that such degrees/diplomas also need to be brought under the proposed legislation. Another viewpoint put forth before the Committee was that Indian students getting academic awards from foreign universities should be allowed to register themselves in NAD on return to India and NAD should provide verification and confirm authenticity in such cases.

14.9 It was clarified by the Department that if an academic institution in India issues a recognized academic award relating to a joint degree, it would have to be lodged with NAD. However, Indian academic institutions imparting courses of study outside India would be covered only if they were located in India and permitted by the competent authority to offer such courses. If in future, foreign education providers are allowed to operate in India, consequent on enactment of the Foreign Universities Bill, the domestic laws would apply to them also and they would have to lodge their academic awards with NAD.

**14.10 The Committee finds the clarification given by the Department with regard to foreign degrees/certificates satisfactory and in accordance with the present position. As and when the Foreign Universities Bill comes into force, a mechanism will have to be evolved so that degrees obtained from foreign universities are also registered with NAD, thus making it easier for employers to verify such degrees and providing employment opportunities to Indian Students.**

(v) **Application of the RTI Act, 2005**

14.11 Committee's attention was drawn to the fact that NAD would be a private entity appointed by the Central Government under the proposed legislation. Thus, it would not be a public authority as defined under the RTI Act, 2005. It was emphasized that NAD would be the sole repository of academic awards and would be performing a significant public function in maintaining such awards, verifying them etc. Therefore, there was a need to include a provision in the Bill, making the RTI Act specifically applicable to NAD. **The Committee is happy to note that the suggestion has been found acceptable by the Department and provision about applicability of RTI Act would be incorporated in the Bill.**

(vi) **Equivalence Certificates**

14.12 A suggestion placed before the Committee related to expanding the domain of the proposed depository by authorizing it to issue equivalence certificates to prospective employers. It was felt that there should be a provision for registering of an equalization certificate under which a foreign job provider asks as to whether a particular degree awarded by an institution is equivalent to the degree of other institutions.

14.13 Response of the Department to this very pertinent issue was not positive as equivalence was considered an altogether different issue. Linking the dematting of academic degree with equivalence was not considered desirable. It was pointed out that in case of need, any employer, including a foreign job provider could get authentication of the degree stored in the depository by following the prescribed procedure.

**14.14 The Committee feels that the matter of equivalence certificates is associated with the career prospects of our young students and needs to be looked into from that perspective. The Committee has been given to understand that the Association of Indian Universities has already been empowered to evaluate and issue equivalence certificates in respect of degrees obtained by candidates from foreign universities. The Committee is of the view that this facility can be expanded by Association of Indian Universities working in co-ordination with NAD in this vital area. The Committee, therefore, recommends that the via media for providing this service through NAD be worked out.**

**(vii) Revenue Model for NAD**

14.15 The Committee observes that the proposed legislation does not have a Financial Memorandum. When asked to clarify the same, it was clarified by the Department that no Government expenditure was expected as it would be a fully user service based provision with users being educational institutions, employers and other stakeholders. Following were the possible heads under which fees could be charged :

<b>S.No</b>	<b>Chargeable Head</b>	<b>Payable by</b>
1.	Verification of Academic Awards	Institutions, Employers, Background Checking Agencies
2.	Issuance of Digitally Signed Authentication Certificates	Certificate Holder
3.	Dematerialization of Academic Awards	Certificate Holder
4.	Mapping of Awards to Certificate Holder	Certificate Holder
5.	Any other value added service to the entity seeking such service	Entity seeking such a service

The user fees will have to be decided by the Government by framing rules under Section 12 (1) keeping in mind the cost of providing each such service. The fees will have to be rational and reasonable.

14.16 Issue of non-charging of user fees from certificate-holders of weaker sections of society was raised by some stakeholders. However, the Department was of the view that it would be difficult to give differential treatment to two different classes of individuals in an electronic system. Even if this was done, it would involve physical verification of documents to be carried out which may open up avenues of corruption.

**14.17 The Committee appreciates the confidence of the Department that the proposed legislation would be a fully user based service, requiring no financial assistance from Government. The Committee would, however, like to draw the attention of the Department**

**to the reservations expressed by the Ministry of Finance about the financial viability of the proposed legislation. It was pointed out that financial sustainability of NAD was dependent upon one-time fee for registration and annual maintenance fee. Acceptance by all the States/academic institutions was also not clear. No alternative regarding financial resources had been suggested. The Committee also takes note of the response of the Department that academic institutions may also become depository agents. This would not only facilitate easy access of students/clients to the depository through the academic institution with its existing network and infrastructure but also help in covering the cost of training the manpower and maintaining online connectivity with the depository.**

14.18 Committee's attention has also been drawn by observations of CBSE that it would have to maintain continuous electronic means of communication with NAD and ADAs along with training of its officials at its own cost. Registration fee etc. would also have to be paid by CBSE. All these aspects would have financial implications for CBSE which would have to meet the additional expenditure by proportionately increasing the examination fees in future. Department's response is that considering the huge network and reach of CBSE, the manpower, IT infrastructure available with it, CBSE may explore the option of becoming one of the ADAs. In addition, some of CBSE-affiliated schools/regions/offices can function as Facilitation Centers.

**14.19 The Committee does not find the above clarification of the Department convincing. The Committee feels that securities depositories and academic depositories cannot be equated so far as their revenue-earning is concerned. Sources of earning for securities depositories are custody fees, transaction fees and other operational income. In contrast, source of income for academic depositories would be user charges. Main users would be School Boards and higher educational institutions comprising of both well established entities as well as those not being very financially strong. Besides that, student community will be allowed access to NAD on payment of nominal charges. The Committee is therefore, of the view that some kind of initial support would have to be provided by the Government for setting up of NAD and making it financially viable. The Committee, accordingly, recommends that this most vital aspect about the setting up of NAD needs to be looked into and resolved keeping in view all the allied aspects.**

**(viii) Applicability of the Proposed Legislation**

14.20 The proposed legislation would extend to the whole of India, including the State of Jammu & Kashmir. The Committee observes that under clauses 9 and 19, matters of dispute relating to cost of training and adjudication of penalties will be handled by the State Educational Tribunals and the National Educational Tribunal respectively. However, the Educational Tribunals Bill, 2010

excludes the State of Jammu & Kashmir from its purview. Apparently, the Educational Tribunals do not have the power to adjudicate in any matter relating to higher education so far as the State of Jammu & Kashmir is concerned. The Committee is of the view that this contradiction needs to be resolved at the earliest and the relevant provisions modified accordingly.

14.21 A number of bills relating to higher education have been referred to the Committee during the last two years. **The Committee notes that while the Prohibition of Unfair Practices in Technical Educational Institutions, Medical Institutions and Universities Bill, 2010, the Educational Tribunals Bill, 2010, the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010 do not extend to the State of Jammu & Kashmir, the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010, the National Academic Depository Bill, 2011 and the Higher Education and Research Bill, 2011 are applicable to the entire country. The Committee finds that there are chances of complications arising due to the non-applicability of the Educational Tribunals Bill, 2010 to the State of Jammu & Kashmir when the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 and the Higher Education and Research Bill, 2011, come into force. In the case of these two legislations also, adjudication process are proposed to be given to Educational Tribunals. The Committee, therefore, recommends that this aspect may be examined by the Department and corrective action taken accordingly.**

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

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

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

18 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

The Committee welcomes the proposed legislation having the laudable objective of maintenance of a national database of academic awards in electronic format by an identified registered depository. This would evolve as a credible, authentic and easily accessible mechanism for access to and verification of academic awards, thereby putting an end to the present cumbersome and time-consuming process of verification/authentication of degrees/certificates. The Committee believes that with the coming into effect of the proposed legislation, the interests of students as well as employers would be served well. Also, the menace of rampant usage of fake certificates in the academic sphere would be curtailed to an extent. The Committee feels that by bringing such a legislation, the first of its kind in the world our country would act as a role model for other countries to follow. Gradually, with the kind of high level of IT expertise available indigenously, India can become a hub for such kind of exchange of information in the world. (Para 1.10)

III. Committee's observations/recommendations on various clauses of the Bill are given in the succeeding paragraphs:-

#### Clause 2 : APPLICATION OF ACT

The Committee notes that this clause states that the Bill would apply to all academic institutions specified in the Schedule. However, a perusal of the Schedule reveals that it contains a list of 39 bodies which conduct school ending examinations which includes, besides the Central Board of Secondary Education, Council for the Indian School Certificate Examination and National Institute of Open Schooling, various State Boards as well as State Open Schools. However, applicability of the proposed legislation extends to institutions imparting higher education also. The Committee is of the view that reference to the Schedule is confusing and is likely to cause complications. (Para 3.2)

The Committee is happy to note that its query about relevance of the use of the term 'Schedule' in clause 2 has been found justified and, accordingly, the clause is proposed to be modified. The Committee would, however, like to point out that the mention of Schedule in clause 3(1)(c) in the definition of the term 'academic institution' was not objected to by it. Also, the Committee is well aware of the fact that academic awards issued by all academic institutions will have to be deposited with NAD on the enactment of the proposed legislation. Its reservations were specifically directed towards the use of the term 'Schedule' in clause 2.

(Para 3.4)

The Committee would also like to point out that the list of bodies included in the Schedule needs to be considered indicative. It may so happen that a new State Board may be created or a new State Open School may come into being or those Boards/Schools listed at present may become non-functional. However, any such modification can be carried out only after the approval of the Parliament. The Committee is, therefore, of the view that a proviso as reproduced below may be added in clause 2 so as to facilitate modifications in the Schedule expeditiously:

*"Provided that the Central Government may, as and when considered necessary, by notification in the Official Gazette, amend the Schedule"* (Para 3.5)

#### IV. Clause 3 : DEFINITIONS

Another ambiguity brought to the Committee's notice was lack of cross reference to the Schedule in the definition of the term 'academic award' which would lead to certain amount of linguistic ambiguity. Response of the Department was that a cross reference to the Schedule in Clause 3(1)(b) would be incorporated in consultation with the Law Ministry. The Committee finds merit in the objection raised with regard to inclusion of definition of the terms 'Board', 'Council' and 'School' in the Bill. Even after a reference to the Schedule in clause 3(1)(b), inclusion of definition of the terms 'Board', 'Council' and 'School' will make things very clear. The Committee, accordingly, recommends that the definitions of these terms may be included under the Definitions clause. (Para 4.3)

Another suggestion made to the Committee was that when awards/certificates were to be deposited in the NAD, marks-sheets should also be included as they were also an equally important document. It was clarified by the Department that all academic institutions starting with secondary boards upwards including universities shall be obligated to lodge in the NAD and this would include marks-sheets also. The Committee believes that there should be no confusion and ambiguity about such basic details with regard to documents to be deposited in the Depository, be it award/degree/diploma. The Committee, therefore, recommends that there should be a specific mention of the term 'marks-sheet' under the definition of the term 'academic award'. (Para 4.4)

Committee's query about consultation with regulatory bodies like Medical Council of India, Dental Council, Nursing Council and the Council of Architecture elicited a nil response from the Department. In addition, it was also clarified that these bodies were regulating professional education whereas the present proposal was entirely academic in nature. The Committee has serious reservation on the clarification given by the Department. Not only this,

the Committee would also like to draw attention to other categories of professional education being mandated by regulatory bodies like Institute of Chartered Accountants of India, Institute of Cost and Works Accountants of India, Institute of Company Secretaries of India, Institution of Electronics and Telecommunication Engineers etc. From this, it implies that such awards or certificates or degrees or whichever name the professional qualification earned is known as will not be eligible for lodging in the NAD. Such an approach is likely to lead to a situation when an individual holding very high professional qualifications will stand deprived from taking benefit of facilities available at NAD while seeking employment or for further education in India or abroad. In a way, prospective employers will also not be in a position to take services of highly qualified professionals. The Committee strongly feels that there appears to be no justification in excluding the professional education from the purview of this legislation. Awards/certificates/degrees, whether academic or professional need to be treated equally, keeping in view the interests of students/professionals as well as employers. The Committee, therefore, strongly advocates the need for inclusion of professional awards such as medical, engineering, architecture, nursing, dental, chartered accountancy, company secretary and so on under the proposed legislation. The definition of 'academic award' may be modified accordingly so as to cover all such recognized professional qualifications. If need be, separate definition for such qualifications may be formulated. (Para 4.5)

When asked to clarify, the Department submitted that foreign boards cannot be mandated by Indian Laws to mandatorily lodge their awards with NAD, but they could lodge their awards on their own volition and the Bill does not prevent them from doing so. The Committee also notes that there is another foreign authority, i.e. International General Certificate of Secondary Education under the Cambridge International Examination operational in the country. A considerable number of schools spread across the country are imparting school education to Indian students through these international set-ups. While a large number of students of such international boards go abroad for further studies, it is also equally true that quite a few students seek admission in Indian universities. To protect their interests as well as those of employers, their school-leaving certificates also need to be deposited in NAD. The Committee, accordingly, recommends that a proviso specifying that foreign boards conducting school leaving examination through duly, recognized schools in the country will also have the option to lodge their awards with NAD may be incorporated in the definition of the term 'academic institution'. (Para 4.8)

The Committee is of the considered view that one of the main purpose of setting up of the National Academic Depository is to facilitate the student community by

**maintaining/storing electronic form of awards, easy access to the awards, and making authentication a less cumbersome process. The Committee reiterates that all kinds of awards, be it professional or technical should be covered under the Bill. The Committee notes that in the Concept Paper for the setting up of NAD, the certificates earned by students in ITIs and other institutions form the basis of the legislative proposal. Moreover, the duration of diploma should not be restricted so long as it imparts vocational education and gainful employment to an individual. The Committee is also aware that many of the diplomas are issued by institutions which fall under the domain of other Ministries/Departments. One such example is that of ITIs which are set up under the Ministry of Labour. Likewise State Governments also set up institutions which conduct short term diploma courses. Like in the case of academic awards, where degrees/certificates conferring professional qualifications have also to be brought under the ambit of NAD, the same analogy should be made applicable in the case of diplomas. In case, lodging of such diploma certificates in NAD involves procedural complications, the Department can easily act in coordination with these Ministries/Departments/State Governments and find out a solution as ultimately it is for the benefit of students and employers.**

**(Para 4.12)**

**V. Clause 4: APPOINTMENT OF NATIONAL ACADEMIC DEPOSITORY**

**The Committee observes that this Evaluation Committee is yet to give its report. During its deliberation with the representatives of the Department on 27 January, 2012, the Committee was given to understand that it would take about one month's time for the Evaluation Committee to give its report. The Committee feels that the Evaluation Committee having experts from academic world as its members is best suited for giving its recommendations on the viability of Securities Depositories handling the work of Academic Depository. The Committee hopes that its recommendations as and when received would prove very useful for this new venture.**

**(Para 5.12)**

**Another area of serious concern for the Committee is the element of ambiguity so far as the supervisory mechanism envisaged for the functioning of NAD is concerned. Clause 4(1) simply states that the Central Government shall be the appointing authority for NAD. As indicated in sub-clause (5), the Central Government before authorising the commencement of operations, may cause to be undertaken physical verification of the provision of systems, safeguards, mechanisms, manual and facilities specified in sub-clause (4). The Committee is of the opinion that this provision lacks clarity as it merely mentions the Central Government as the regulatory authority. The regulatory authority is an important aspect of the proposed legislation and it should be specifically provided for therein. Even the Planning Commission**

has pointed out that no clear cut regulatory framework has been suggested for regulating the functioning of NAD or the national data base. This needs to be factored into the legislation *ab initio* to avoid any confusion. The Committee finds the following response of the Department to the reservations of the Planning Commission totally unconvincing:

*"Regulatory framework is adequately provided for in the legislation in clauses 4, 15, 26, 27, 28 and 29. These clauses are meant to ensure that NAD functions as per the directions of the Central Government. Despite these clauses, in case NAD fails to discharge its functions as expected, clause 6 provides for the revocation of appointment of NAD."*  
(Para 5.13)

The Committee would like to point out that clause 15 relates to Accounts and Audit of NAD, clause 26 is about crediting sums realized by way of compensation or penalty or fine to Consolidated Fund of India, clause 27 relates to returns and information to be provided by NAD, clause 28 is about power of Central Government to give directions and clause 29 relates to power of Central Government to inspect. Suggestion of the Planning Commission which the Committee fully supports pertains to having a well-defined and structured regulatory framework in the legislation itself. Auditing of Accounts, crediting of sums in the Consolidated Fund, filing of returns and other information, directions of Government and inspection of NAD cannot be considered an alternative to a proper regulatory framework.

(Para 5.14)

Committee's attention has been drawn to the fact that along with the criteria for registration under the SEBI Act, the National Academic Depository will have to have in its memorandum of association, specified provision of depository services for academic awards as one of its objects. The Committee, while appreciating the inclusion of a specific condition keeping in view the distinct features of academic awards vis-à-vis securities, would like to draw the attention towards section 11 of the SEBI Act whereunder SEBI Board has been entrusted the function of registering as well as regulating the working of the depositories. Thus, every depository registered under the SEBI Act or its subsidiary including that dealing with academic awards will be under the regulatory framework laid down by SEBI Board.

(Para 5.15)

5.17 The Committee is of the view that this legislation should specifically provide for a regulatory authority which could comprise of experts or representatives from the field of education, information technology, finance and the representative of the Ministry of HRD. This regulatory framework can be easily evolved on the lines of the framework of SEBI Board provided in the SEBI Act. Since this Bill specifically deals in the academic awards, degrees

etc., it should have the regulators primarily from the field of education along with technology experts to take care of the technical aspects. (Para 5.17)

The Committee observes that the data to be handled and maintained by the National Academic Depository and the Central Identities Data Repository is crucial and sensitive, rather it is more sensitive in the case of the Central Identities Data Repository. When a National Identification Authority can be mandated for establishing, operating and maintaining of a Central Repository, a similar Authority can very well be mandated to have the responsibility of handling the affairs of National Academic Depository. The only hurdle is the use of terminology. However, the National Academic Depository can very well be called National Academic Repository. As informed by the Department, the two terms are actually synonyms for each other and their dictionary meaning is also the same. The contention that usage of the term 'Depository' has been made only because it is legally defined does not seem to be a convincing and need not be considered binding. The Committee would like to point out that by replacing the term 'depository' by the term 'repository', compulsion of NAD being registered under the SEBI Act will also not be there. (Para 5.20)

5.21 The Committee would also like to draw attention to the Concept Paper on the Electronic Depositories of Academic Certificates prepared by Shri Sanjay G. Dhande, Director, IIT, Kanpur which forms the basis of the proposed legislation. This Concept Paper also talks about a National Academic Instrument Depository which will be similar to the depositories of financial instruments. It also mentions that the composition of such an organization/corporation will be spelt out in the Act. As suggested in the Concept Paper, a Task Force under the Chairmanship of Shri Sanjay G. Dhande was set up to give its recommendations for the legislative proposal. Committee's attempts to procure a copy of the recommendations of the Task Force failed to materialize. However, a copy of the minutes of the second meeting of the Task Force held on 15 February, 2010 was made available by the Department. Para 6 of minutes of this meeting reproduced below is very pertinent in the present context:

*"While the SEBI Act, 1992 provides for registration of depositories and the Depositories Act, 1996 provides a legal mandate detailing the obligations and duties as well as the structure under which the depository is to operate the said legislations apply to financial instruments only. In order to extend their applicability to academic instruments qualifications, the said legislations would require to be studied from the legal angle in order to consider if the said Acts would need to be amended in order to extend its applicability to academic institutes/qualifications and if so, the clauses to be modified/amended."*

(Para 5.21)

The Committee also notes that both UGC and AICTE, while concurring with the registration of academic depository under the SEBI Act, have pointed out that the regulation of the functioning and all other incidental aspects of NAD must be regulated by the appointing authority under the Bill. It has been mentioned by these two authorities that the above division of function is justified as the Central Government/Ministry of HRD is much more familiar with the problem that is required to be addressed. The Association of Indian Universities is also of the view that NAD should be an independent body. The very fact that need for involvement of authorities concerned with academic matters has been upheld by all the stakeholders appearing before the Committee should put an end to any ambiguity in this matter. The Committee, accordingly, recommends that necessary modifications on the lines of National Identification Authority of India Bill, 2010 and SEBI Board constituted under the SEBI Act, 2000 may be brought about in clause 4 and other relevant clauses so that a proper regulatory framework for maintenance of a national database of academic awards entrusted to an independent authority and other allied functionaries is put in place. (Para 5.22)

The Committee would also like to point out that the eligibility criteria for the proposed National Academic Repository will have to be modified. Keeping in view the nature of items to be kept in the Repository, it would be prudent to engage authorities involved in the higher education sector. It can be a joint venture where well-established authorities/statutory bodies like UGC, AICTE, CBSE, Accreditation Authority, Central Universities/Professional Bodies along with those working in the IT Sector can be made the stakeholders for setting up the National Academic Repository and its functioning. (Para 5.24)

#### **VI. Clause 7: SEGREGATION OF ACTIVITIES AND BUSINESS**

With the criteria of registration of NAD under section 12(1A) of the SEBI Act proposed to be deleted, requirement of clause 7 relating to segregation of activities and business would also not be there. The Committee, accordingly, recommends deletion of clause 7. (Para 6.2)

#### **VII. Clause 8 : REGISTRATION OF ACADEMIC DEPOSITORY AGENT**

The extent of delegation/outsourcing by NAD should also be re-examined to assess whether NAD should be enabled to potentially outsource all its functions. The Committee would like to emphasize that all the services of NAD cannot and should not be delegated to the ADAs, especially the core activities as these related to maintenance of data by NAD which is of a very sensitive nature. The Committee is happy to note that the pertinent issue about the viability of outsourcing the services entrusted to NAD to any number of Academic Depository Agents and its implications has been found acceptable by the Department which

has agreed to review the same. The Committee also recommends that the Bill needs to provide more stringent criterion to be adopted by NAD while selecting and registering an academic depository agent. Regulatory bodies like UGC, AICTE and CBSE and even well-established academic institutions can function as ADAs. UGC, AICTE and CBSE with their regional/State offices and units and Universities having a well-knit set up of colleges can be considered the most effective ADAs, as they are well –equipped and well-conversant with academic matters. The Committee, accordingly, is of the view that only such entities be made eligible to function as ADAs. (Para 7.4)

**VIII. Clause 9 : MANDATORY LODGING OF ACADEMIC AWARD BY ACADEMIC INSTITUTIONS IN DEPOSITORY.**

The Committee, while noting the reply furnished by the Department regarding adjudication of disputes to recover the cost of training by NAD from academic institutions by State Educational Tribunals would like to point out that the National Educational Tribunal as well as State Educational Tribunals have jurisdiction only pertaining to the higher educational institutions whereas the present legislation pertains to both the school boards/ councils as well as higher educational institutions which means that these Tribunals would not be having any control over the school boards and councils with regard to adjudication matters. The Committee observes that this is an inherent legal weakness in the implementation of this provision of the Bill. The Committee would also like to point out that the element of dispute with regard to reasonableness of training charges would not be there if training is imparted as per the prescribed rates. The Committee, accordingly, recommends that such rates can be prescribed through the rules to be made under this legislation.

(Para 8.3)

**IX. Clause 10 : DUTY OF ACADEMIC INSTITUTIONS**

The Committee, while taking note of the views expressed by the experts/ stakeholders regarding the time period to be provided for the verification/ authentication of academic awards by NAD/ ADA from seven days as given in the Bill to that of seven working days or up to fifteen days or for three months, is of the opinion that the time of seven days as given in the Bill is somewhat long. The Committee, therefore, recommends that this time-limit of seven days may be reviewed after six months of commencement of the Act so that verification process is completed in shorter period. (Para 9.4)

**X. Clause 11: LODGING OF ACADEMIC AWARDS BY ANY PERSON**

The Committee takes note of suggestions given by the various experts/ stakeholders and the response of the Department. The Committee is of the view that academic awards pertaining to previous ten years from the date of coming into force subject to their availability and proper verification should be mandatorily lodged with the academic depository as such persons would still be in the job / labour market and they may be benefitting from services envisaged under the proposed legislation. (Para 10.3)

#### **XI. Clauses 16 to 24: OFFENCES AND PENALTIES**

The Committee, while agreeing with the intention behind the imposition of heavy penalty and harsh imprisonment term in view of nature of contraventions and offences and also supported by similar provisions in the IT Act and the SEBI Act, has some reservations on certain provisions and implications thereof. The first problem area noticed by the Committee is the National Educational Tribunal being made the adjudicating authority for cases relating to damage to computers, computer system etc. (Clause 16), penalty for contravention by NAD/Depository Agent (clause 17) and penalty for academic institution (clause 18). The Committee observes that the National Educational Tribunal/State Educational Tribunals are proposed to be set up for effective and expeditious adjudication of disputes involving teachers and other employees of higher educational institutions and other stakeholders (including students, universities, institutions and statutory regulatory authorities) and to adjudicate penalties for indulging in unfair practices in higher education.

(Para 11.4)

The Committee would like to point out that the National Educational Tribunal as well as the State Educational Tribunals are envisaged to be given the mandate to handle cases relating to higher education sector. This is clearly borne out by the Statement of Objects and Reasons to the Educational Tribunal Bill, 2010 which specifies that the legislation proposes to establish a two-tier structure of Educational Tribunals at national and state level to adjudicate on the entire gamut of disputes arising in the higher education system through a fast track, speedy recourse to justice delivery. The Committee fails to comprehend the applicability of a legislation dealing with higher education being entrusted the power to handle School Boards related cases also. The Committee, accordingly, recommends that clause 19 enabling the National Educational Tribunal to handle matters under clauses 16, 17 and 18 needs to be reviewed. Such a provision cannot be considered legally tenable.

(Para 11.6)

Another drawback noticed by the Committee relates to clause 16 on compensation for damage to computer, computer system etc. The Committee observes that this clause is identical to clause 43 of the IT Act. Both the provisions impose penalty for various unauthorized acts of a person causing damage to computer, computer system etc. The Committee finds that sub-section (h) of section 43 of the IT Act as reproduced below is missing in clause 16 of the Bill:

*“43(h) charges the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system or computer network.”*

The Committee feels that the above provision should also be incorporated in clause 16 of the Bill. The other problem-area pertaining to clause 16 which has drawn the attention of the Committee is the need for making the adjudication mechanism available under the IT Act applicable on clause 16 as done in the case of clauses 20 and 21. This can be easily done by making a reference to section 46 about power to adjudicate of the IT Act, 2000 in clause 16 as done in clauses 21 and 22. (Para 11.7)

A comparative analysis of clause 21 of the Bill and section 66 of the IT Act, 2000 reveals that both the provisions relate to offence of hacking into national database. However, sub-section (1) of Section 66 of the IT Act, 2000 which reads as follows has not been included in the Bill:

*(1) Whoever with the intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or any person destroys or deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means, commits hack;*

The Committee strongly feels that in order to have more clarity, the above provision should also be incorporated in clause 21 of the Bill. When section 43 of the IT Act, 2000 can be reproduced as clause 16 in the present Bill, the same approach should have been adopted with regard to clauses 21 and 22 as well. (Para 11.8)

## **XII. Clause 25: COGNIZANCE OF OFFENCES**

Clause 25 relating to cognizance of offences lays down that no court shall take cognizance of any offence punishable under the Bill or the rules made thereunder, except on a complaint made by the Central Government/State Government/NAD/any officer or person authorized by the Central Government/State Government/NAD. Rationale for having such a provision is not clear. The Committee is of the view that such a provision would prove to be restrictive if an academic institution has a genuine grievance against NAD or the Central Government. In such a situation, as a matter of natural justice, one should not be denied

judicial relief. The Committee would also like to point out that in view of educational institutions and employers spread across the country, access to judicial courts should not be debarred because this will limit their access. Clause 25 may, accordingly, be suitably modified. The Committee also observes that offences under clauses 20 and 21 are to be dealt with under the IT Act (Sections 65 and 66) which does not have a provision like clause 25. Under the IT Act, any person aggrieved by the decision of Cyber Appellate Tribunal can appeal to the High Court. (Para 12.1)

### **XIII. Clause 28: POWER OF CENTRAL GOVERNMENT TO GIVE DIRECTIONS**

Clause 28 lays down that the Central Government would have the power to give directions on questions of policy to NAD from time to time. However, NAD will not get any opportunity to express its views before giving of such a direction by the Central Government. The Committee finds this provision to be somewhat unjustified. NAD along with depository agents and institutions/universities/school/boards will be responsible for handling the entire operations for creation of a national database and providing access thereto. The Committee, accordingly, recommends that under clause 28, NAD should be given an opportunity to give its view before issuance of any direction on question of policy by the Central Government. (Para 13.1)

### **XIV. MISCELLANEOUS**

During the course of deliberations with various stakeholders, a number of issues were raised which, though not directly related to the proposed legislation before the Committee, were very relevant and crucial. The Committee is of the view that these issues, if addressed in the right perspective, will go a long way in strengthening the proposed legislation. Committee's observations on some of the most important issues are given below:

(i) **Mechanism for maintaining a database on caste certificates issued to students.**

The Committee is not fully convinced with the contention of the Ministry. The Committee is of the view that this issue can be very easily handled by seeking the assistance of the nodal Ministry i.e. Ministry of Social Justice and Empowerment. Information available with that Ministry can be put on the website of NAD by having linkage/connectivity with their website. Such an initiative will go a long way in curbing the instances of misuse in the admission for reserved categories of seats. (Para 14.1)

(iii) **School level Certificate**

Apart from the performance of students in the school leaving examination, their performance in sports, NCC, NSS and performing arts and other activities also serve as a benchmark for getting admission to different Graduate Courses. **The Committee finds that across the country in a very large number of universities and institutions, there is a fixed quota of students who have excelled in such activities for admission in higher education courses. Extra weightage is given to such students so that they get admission in colleges in spite of not fulfilling eligibility criteria so far as their academic record is concerned. Therefore, such awards/certificates are very important and also need to be given similar treatment when compared with academic awards. The Committee, therefore, feels that such certificates/awards should also be brought under the National Academic Depository. Modification in the relevant clauses may accordingly, be carried out. This will also help in curbing misuse of this facility by using fake certificates.** (Para 14.5)

(iii) **Information about fake universities/institutions/degrees/certificates**

On this matter being taken up with the Department, it was clarified that since only authorized institutions can upload their data on the NAD database, fake Boards/Institutions cannot become the users. However, assurance was given by the Department that NAD would be asked to display on its website the names of fake Boards/Institutions. **The Committee observes that UGC is already maintaining a list of fake universities on its website which can very well be maintained on the website of NAD. The Committee is also of the view that simultaneously a list of recognized universities, institutions, schools, boards etc. authorized to award degree, diploma, certificates etc should also be made available on the NAD website. The Committee strongly feels that such a move will prove beneficial for our young students. The Committee would also take this opportunity to point out that deterrent steps need to be taken by all concerned to curb the menace of fake universities /institutions. It is high time that the Central Government takes a pro-active role in this direction.** (Para 14.7)

(iv) **Status of degrees/certificates awarded by foreign universities/institutions.**

**The Committee finds the clarification given by the Department with regard to foreign degrees/certificates satisfactory and in accordance with the present position. As and when the Foreign Universities Bill comes into force, a mechanism will have to be evolved so that degrees obtained from foreign universities are also registered with NAD, thus making it easier for employers to verify such degrees and providing employment opportunities to Indian Students.** (Para 14.10)

(v) **Application of the RTI Act, 2005**

Committee's attention was drawn to the fact that NAD would be a private entity appointed by the Central Government under the proposed legislation. Thus, it would not be a public authority as defined under the RTI Act, 2005. It was emphasized that NAD would be the sole repository of academic awards and would be performing a significant public function in maintaining such awards, verifying them etc. Therefore, there was a need to include a provision in the Bill, making the RTI Act specifically applicable to NAD. The Committee is happy to note that the suggestion has been found acceptable by the Department and provision about applicability of RTI Act would be incorporated in the Bill. (Para 14.11)

(vi) Equivalence Certificates

The Committee feels that the matter of equivalence certificates is associated with the career prospects of our young students and needs to be looked into from that perspective. The Committee has been given to understand that the Association of Indian Universities has already been empowered to evaluate and issue equivalence certificates in respect of degrees obtained by candidates from foreign universities. The Committee is of the view that this facility can be expanded by Association of Indian Universities working in co-ordination with NAD in this vital area. The Committee, therefore, recommends that the via media for providing this service through NAD be worked out. (Para 14.14)

(vii) Revenue Model for NAD

The Committee appreciates the confidence of the Department that the proposed legislation would be a fully user based service, requiring no financial assistance from Government. The Committee would, however, like to draw the attention of the Department to the reservations expressed by the Ministry of Finance about the financial viability of the proposed legislation. It was pointed out that financial sustainability of NAD was dependent upon one-time fee for registration and annual maintenance fee. Acceptance by all the States/academic institutions was also not clear. No alternative regarding financial resources had been suggested. The Committee also takes note of the response of the Department that academic institutions may also become depository agents. This would not only facilitate easy access of students/clients to the depository through the academic institution with its existing network and infrastructure but also help in covering the cost of training the manpower and maintaining online connectivity with the depository. (Para 14.17)

The Committee does not find the above clarification of the Department convincing. The Committee feels that securities depositories and academic depositories cannot be equated

so far as their revenue-earning is concerned. Sources of earning for securities depositories are custody fees, transaction fees and other operational income. In contrast, source of income for academic depositories would be user charges. Main users would be School Boards and higher educational institutions comprising of both well established entities as well as those not being very financially strong. Besides that, student community will be allowed access to NAD on payment of nominal charges. The Committee is therefore, of the view that some kind of initial support would have to be provided by the Government for setting up of NAD and making it financially viable. The Committee, accordingly, recommends that this most vital aspect about the setting up of NAD needs to be looked into and resolved keeping in view all the allied aspects. (Para 14.19)

(viii) **Applicability of the Proposed Legislation**

A number of bills relating to higher education have been referred to the Committee during the last two years. The Committee notes that while the Prohibition of Unfair Practices in Technical Educational Institutions, Medical Institutions and Universities Bill, 2010, the Educational Tribunals Bill, 2010, the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010 do not extend to the State of Jammu & Kashmir, the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010, the National Academic Depository Bill, 2011 and the Higher Education and Research Bill, 2011 are applicable to the entire country. The Committee finds that there are chances of complications arising due to the non-applicability of the Educational Tribunals Bill, 2010 to the State of Jammu & Kashmir when the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 and the Higher Education and Research Bill, 2011, come into force. In the case of these two legislations also, adjudication process are proposed to be given to Educational Tribunals. The Committee, therefore, recommends that this aspect may be examined by the Department and corrective action taken accordingly. (Para 14.21)

---

# MINUTES

---

**VI**  
**SIXTH - MEETING**

The Committee on Human Resource Development met at 4.00 p.m. on Wednesday the 23<sup>rd</sup> November, 2011 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

**MEMBERS PRESENT**  
**RAJYA SABHA**

1. Shri N.K. Singh - **In the Chair**
2. Dr. K. Keshava Rao
4. Shri Prakash Javadekar
5. Shri M. Rama Jois
6. Shri Pramod Kureel
7. Shri N. Balaganga

**LOK SABHA**

8. Shri E.T. Mohammed Basheer
9. Shri Kuvarjibhai Mohanbhai Bavalia
10. Shri Mirza Mehboob Beg
11. Shri P.K.Biju
12. Shri Suresh Chanabasappa Angadi
13. Shri P.C. Gaddigoudar
14. Shri Kapil Muni Karwaria
15. Kumari Saroj Pandey
15. Shri Balkrishna Khanderao Shukla
16. Shri Joseph Toppo

**LIST OF WITNESSES**

**THE NATIONAL ACADEMIC DEPOSITORY BILL, 2011**

**DEPARTMENT OF HIGHER EDUCATION**  
**MINISTRY OF HUMAN RESOURCE DEVELOPMENT**

1. Smt. Vibha Puri Das, Secretary (HE)
2. Prof. S.S. Mantha, Chairman, AICTE
3. Shri Vineet Joshi, Chairman, CBSE
4. Shri R.P. Sisodia, Joint Secretary, MHRD
5. Dr. N.A. Kazmi, Secretary, UGC

**SECRETARIAT**

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

2. At the outset, the Chairman welcomed the members to the meeting of the Committee convened to hear the Secretary, Department of Higher Education, Ministry of Human Resource Development on the National Academic Depository, Bill, 2011. The Chairman, while reviewing the status of the Bills pending with the Committee informed the Members that the deadline for presenting Reports on the Protection of Women Against Sexual Harassment at Workplace Bill, 2010, and the Protection of Children from Sexual Offence Bill, 2011 is 31<sup>st</sup> December, 2011 and that of the National Academic Depository Bill, 2011 is 15<sup>th</sup> December, 2011 respectively. The Committee would therefore, be engaged in concluding its work on the Protection of Women Against Sexual Harassment at Workplace Bill, 2010 and Protection of Children from Sexual Offences Bill, 2011. It would, therefore, require more time to deliberate on the National Academic Depository Bill, 2011. The Committee, accordingly, decided to seek extension of time for presentation of the Report on the National Academic Depository Bill, 2011 upto 31<sup>st</sup> January, 2012 and authorized the Chairman to approach the Hon'ble Chairman, Rajya Sabha in this regard. The Chairman also informed the Members that the next meeting of the Committee will be on 30<sup>th</sup> November, 2011

3. The Committee then heard the Secretary, Department of Higher Education on the National Academic Depository Bill, 2011. 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.

4. A verbatim record of the proceedings was kept.

5. The Committee then adjourned at 5.00 p.m. to meet again at 3.30 p.m. on Wednesday, the 30<sup>th</sup> November, 2011

## X

### TENTH - MEETING

The Committee on Human Resource Development met at 3.00 p.m. on Thursday, the 12<sup>th</sup> January, 2012 in Committee Room 'C', Ground Floor, Parliament House Annexe, New Delhi.

#### MEMBERS PRESENT

##### RAJYA SABHA

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

##### LOK SABHA

8. Dr. Mirza Mehboob Beg
9. Shri P.K.Biju
10. Shri Jeetendra Singh Bundela
11. Shri P.C. Gaddigoudar
12. Capt. Jai Narain Prasad Nishad
13. Shri Prasanna Kumar Patasani
14. Shri Joseph Toppo
15. Dr. Vinay Kumar Pandey 'Vinnu'
16. Shri Madhu Goud Yaskhi

#### SECRETARIAT

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

#### LIST OF WITNESSES

##### THE NATIONAL ACADEMIC DEPOSITORY BILL, 2011

#### I. UNIVERSITY GRANTS COMMISSION (UGC)

1. Prof. Ved Prakash, Chairman

#### II CENTRAL BOARD OF SECONDARY EDUCATION (CBSE)

1. Shri Vineet Joshi, Chairman
2. Shri M.C. Sharma, Controller of Examinations

#### III ALL INDIA COUNCIL OF TECHNICAL EDUCATION (AICTE)

1. Shri S.S Mantha, Chairman

#### **IV IIT, KANPUR**

1. Prof. Sanjay G. Dhande, Director

#### **V SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI)**

1. Shri Rajeev Kumar Agarwal, WTM
2. Shri S. Raman, Executive Director
3. Shri S.V.M.D. Rao, Chief General Manager
4. Shri Sameer Gupte, Vice President & Head of the NADP

2. At the outset, the Chairman, welcomed the Members to the meeting of the Committee convened to hear a number of experts on the National Academic Depository Bill, 2011. The Chairman also informed the members about the new Bill referred to the Committee by the Hon'ble Chairman, Rajya Sabha, i.e. the Higher Education and Research Bill, 2011.

3. Thereafter, the Chairman, while reviewing the progress on the National Academic Depository Bill, 2011 pending before the Committee, informed the members that the deadline for presenting the Report on the Bill was 31st January, 2012. The Committee was scheduled to hear a number of stakeholders on the Bill in its meetings fixed for 12<sup>th</sup> and 13<sup>th</sup> January, 2012. The Committee would be seeking clarifications from the Secretary, Department of Higher Education on certain issues related to the Bill before taking up clause-by-clause consideration. Only thereafter, the Committee would take up the consideration and adoption of the draft Report on the Bill. Therefore, the Committee, taking into account the further work involved in the Bill, decided to seek extension of time from the Hon'ble Chairman, Rajya Sabha upto 29th February, 2012 for presenting its Report on the Bill.

4. Thereafter, the Committee heard the views of the Chairmen of UGC, AICTE, CBSE, Director, IIT, Kanpur and the representatives of SEBI on the National Academic Depository, Bill, 2011. Members raised queries which were replied to by the witnesses. The Committee decided to send questionnaire to all the witnesses.

5. Verbatim record of the proceedings was kept.

6. The Committee then adjourned at 5.15 p.m. to meet again on 13<sup>th</sup> January, 2012 at 11.00 a.m.

## XI

### ELEVENTH - MEETING

The Committee on Human Resource Development met at 11.00 a.m. on Friday, the 13<sup>th</sup> January, 2012 in Committee Room 'D', Ground Floor, Parliament House Annexe, New Delhi.

#### MEMBERS PRESENT

##### RAJYA SABHA

1. Shri Oscar Fernandes - **Chairman**
2. Shrimati Mohsina Kidwai
3. Dr. K. Keshava Rao
4. Shri N. Balaganga

##### LOK SABHA

5. Dr. Mirza Mehboob Beg
6. Shri P.K.Biju
7. Shri Jeetendra Singh Bundela
8. Capt. Jai Narain Prasad Nishad
9. Shri Joseph Toppo
10. Shri Vinay Kumar Pandey 'Vinnu'
11. Shri Madhu Goud Yaskhi

#### SECRETARIAT

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

#### LIST OF WITNESSES

##### THE NATIONAL ACADEMIC DEPOSITORY BILL, 2011

#### I. EDUCATION PROMOTION SOCIETY OF INDIA (EPSI)

1. Shri Ashok Mittal, Chancellor, Lovely Professional University, Phagwara
2. Shri P.K. Gupta, Chancellor, Sharda University, Greater Noida

#### II. INDIAN COUNCIL OF UNIVERSITIES (ICU)

1. Brig. (Dr.) S.S. Pabla, Vice-Chancellor, Manipal University, Jaipur
2. Dr. Umesh Sharma, Director, Sunrise University
3. Dr. G.S. Yadava, Acting Vice-Chancellor, Lingaya's University
4. Shri Devinder Narain, Shobhit University
5. Shri R.D. Kaushik, Director, Lovely Professional University

### **III. ASSOCIATION OF INDIAN UNIVERSITIES (AIU)**

1. Prof. Arun Divakar Nath Bajpai, Secretary General
2. Shri Sambhav Srivastava, In-charge, Evaluation Division

### **IV. SARTHAK ADVOCATES AND SOLICITORS**

1. Shri Abhishek Tripathi
2. Ms. Mani Gupta

### **V. ICICI**

1. Shri Maninder Juneja
2. Shri Neelkanthan Pillai
3. Shri Vikrant Thakur

2. At the outset, the Chairman, welcomed the Members to the meeting of the Committee convened to hear a number of experts on the National Academic Depository, 2011.

3. Thereafter, the Committee heard the views of the representatives of Education Promotion Society of India (EPSI), Indian Council of Universities (ICU), Association of Indian Universities (AIU), Sarthak Advocates and ICICI on the National Academic Depository Bill, 2011. Members raised queries which were replied to by the witnesses. The Committee decided to send questionnaire to EPSI, ICU and AIU.

4. \*\*\*                      \*\*\*                      \*\*\*                      \*\*\*                      \*\*\*                      \*\*\*

5. Verbatim record of the proceedings was kept.

6. The Committee then adjourned at 12.45 p.m.

## **XII**

### **TWELFTH - MEETING**

The Committee on Human Resource Development met at 11.00 a.m. on Friday, the 27<sup>th</sup> January, 2012 in Committee Room 'E', Basement, Parliament House Annexe, New Delhi.

#### **MEMBERS PRESENT**

##### **RAJYA SABHA**

1. Shri Oscar Fernandes - **Chairman**
2. Shrimati Mohsina Kidwai
3. Dr. K. Keshava Rao
4. Shri Pramod Kureel
5. Shri N. Balaganga

##### **LOK SABHA**

6. Shri E.T. Mohammed Basheer
7. Dr. Mirza Mehboob Beg
8. Shri P.K.Biju
9. Shri P.C. Gaddigoudar
10. Capt. Jai Narain Prasad Nishad
11. Shri Sheesh Ram Ola
12. Shri Prasanna Kumar Patasani
13. Shri Balakrishna Khanderao Shukla
14. Shri Joseph Toppo
15. Shri Ramesh Rathod

#### **LIST OF WITNESSES**

#### **THE NATIONAL ACADEMIC DEPOSITORY BILL, 2011**

##### **I. DEPARTMENT OF HIGHER EDUCATION, MINISTRY OF HUMAN RESOURCE DEVELOPMENT**

1. Shri R.P. Sisodia, Joint Secretary
2. Dr. G. Narayana Raju, Joint Secretary & LC
3. Prof. Ved Prakash, Chairman, UGC
4. Dr. S.S. Mantha, Chairman, AICTE
5. Shri Vineet Joshi, Chairman, CBSE
6. Shri Diwakar Singh, Deputy Legislative Counsel
7. Shri Harpreet Singh, Director

##### **SECRETARIAT**

Smt. Vandana Garg, Additional Secretary  
Shri Arun Sharma, Joint Director  
Smt. Harshita Shankar, Committee Officer

2. At the outset, the Chairman welcomed the Members to the meeting of the Committee convened to have a final discussion with the Joint Secretary and other officials of the Department of Higher Education on various issues and concerns expressed by stakeholders and members on the National Academic Depository Bill, 2011. The Chairman and the members decided to have a clause-by-clause consideration of the Bill in its next meeting. \*\*\* \*\*

3. \*\*\* \*\*

4. Thereafter, the Joint Secretary and other officials of the Department of Higher Education briefed the Committee on various issues and concerns on the National Academic Depository Bill, 2011. The Chairman and members then sought further clarification on certain issues such as rationale behind bringing this Bill, revenue model of National Academic Depository, the monitoring mechanism, registration of National Academic Depository under the SEBI Act and the role of depository agents etc. which were replied to by the officials.

5. Verbatim record of the proceedings was kept.

6. The Committee then adjourned at 1.00 p.m.

## **XIII**

### **THIRTEENTH- MEETING**

The Committee on Human Resource Development met at 3.30 p.m. on Monday, the 6<sup>th</sup> February, 2012 in Room No. '53', Parliament House, New Delhi.

#### **MEMBERS PRESENT**

##### **RAJYA SABHA**

1. Shri Oscar Fernandes - **Chairman**
2. Shrimati Mohsina Kidwai
3. Dr. K. Keshava Rao
4. Shri M. Rama Jois
5. Dr. Janardhan Waghmare
6. Shri N. Balaganga

##### **LOK SABHA**

7. Dr. Mirza Mehboob Beg
8. Shri P.K.Biju
9. Shri Suresh Chanbassappa Angadi
10. Shri P.C. Gaddigoudar
11. Capt. Jai Narain Prasad Nishad
12. Shri Sheesh Ram Ola
13. Shri Balakrishna Khanderao Shukla
14. Shri Ramesh Rathod

#### **SECRETARIAT**

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

2. At the outset, the Chairman welcomed the Members to the meeting of the Committee convened to have a clause-by-clause consideration of the National Academic Depository Bill, 2011.

3. Based on the deliberations with the various stakeholders and the clarifications given by the Department of Higher Education, the Committee was of the view that some of the provisions of the Bill like its applicability, definitions of terms like 'academic award', 'diploma', 'academic institutions' etc., setting up of the National Academic Depository, role of academic depository agents, penalties for various contraventions etc. required modifications. The Committee also felt that issues like fixation of user-charges, mechanism for having information about fake Universities/institutions, viability of inclusion of academic awards of previous years etc. had to be taken care of. The Committee, thereafter, directed the Secretariat to draft a Report on the Bill for consideration of the same in its next meeting.

4. The Committee then adjourned at 5.00 p.m.

## XIV

### FOURTEENTH - MEETING

The Committee on Human Resource Development met at 3.30 p.m. on Wednesday, the 22<sup>nd</sup> February, 2012 in Committee Room 'D', Ground Floor, Parliament House Annexe, New Delhi.

#### MEMBERS PRESENT RAJYA SABHA

1. Shri Oscar Fernandes - **Chairman**
2. Shrimati Mohsina Kidwai
3. Dr. K. Keshava Rao
4. Shri Prakash Javadekar
5. Shri Pramod Kureel
6. Dr. Janardhan Waghmare
7. Shri N. Balaganga

#### LOK SABHA

8. Shri E.T. Mohammed Basheer
9. Shri Kuvartjibhai Mohanbhai Bavalia
10. Shri P.K.Biju
11. Shri Jeetendra Singh Bundela
12. Shri Suresh Chanbassappa Angadi
13. Shri P.C. Gaddigoudar
14. Shri Kapil Muni Karwariya
15. Capt. Jai Narain Prasad Nishad
16. Shri Prasanna Kumar Patasani
17. Shri Balakrishna Khanderao Shukla
18. Shri Joseph Toppo
19. Dr. Vinay Kumar Pandey 'Vinnu'
- 20.. Shri Ramesh Rathod

\*\*\*                      \*\*\*                      \*\*\*                      \*\*\*                      \*\*\*                      \*\*\*

#### SECRETARIAT

Smt. Vandana Garg, Additional Secretary  
Shri N.S. Walia, Director  
Shri Arun Sharma, Joint Director  
Smt. Himanshi Arya, Assistant Director  
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 241<sup>st</sup> Report on the National Academic Depository Bill, 2011 \*\*\*

3. The Committee, then considered and adopted the draft 241<sup>st</sup> Report on the National Academic Depository Bill, 2011 after few modifications. Due to some urgent work in the constituency of the Chairman of the Committee and his unavailability till 29 February, 2012, the Committee authorized the Chairman to request Hon'ble Chairman, Rajya Sabha to grant permission to present the Report on this Bill in both the Houses of Parliament in the first week of the forthcoming session.

4. \*\*\* \*\*

5. Verbatim record of the proceedings was kept.

6. The Committee then adjourned at 5.40 p.m.