



**PARLIAMENT OF INDIA
RAJYA SABHA**

237

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

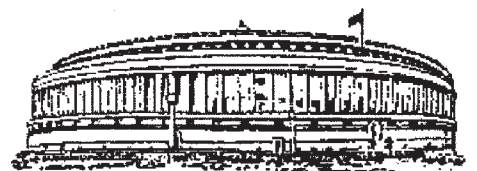
TWO HUNDRED THIRTY-SEVENTH REPORT

ON

**THE FOREIGN EDUCATIONAL INSTITUTIONS
(REGULATION OF ENTRY AND OPERATIONS) BILL, 2010**

**(PRESENTED TO THE RAJYA SABHA ON 1ST AUGUST, 2011)
(LAID ON THE TABLE OF LOK SABHA ON 2ND AUGUST, 2011)**

**RAJYA SABHA SECRETARIAT
NEW DELHI
AUGUST, 2011/SRAVANA, 1933 (SAKA)**



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COMPOSITION OF THE COMMITTEE ON HRD
(2010-11)

RAJYA SABHA

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

LOK SABHA

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

(ii)

SECRETARIAT

Shrimati Vandana Garg, *Additional Secretary*

Shri N.S. Walia, *Director*

Shri Arun Sharma, *Joint Director*

Shri Sanjay Singh, *Assistant Director*

Shrimati Himanshi Arya, *Committee Officer*

Shrimati Harshita Shankar, *Committee Officer*

PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Human Resource Development, having been authorized by the Committee, present this Two Hundred and Thirty-seventh Report of the Committee on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010*.

2. The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 was introduced in the Lok Sabha on 3 May, 2010. In pursuance of Rule 270 relating to Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha in consultation with the Speaker, Lok Sabha referred** the Bill to the Committee on 13 May, 2010 for examination and report.

3. The Bill being a landmark legislation in the higher education sector in the country, the Committee issued a Press Release for eliciting public opinion. In response, sixty-nine memoranda on the Bill were received from various organizations/individuals. Views of the stakeholders were circulated amongst the members of the Committee and also formed part of the questionnaire of the Committee referred to the Department of Higher Education for written response.

4. The Committee considered the Bill in ten sittings held on 31 January, 14 February, 15 February, 8 March, 17 March, 30 March, 19 April, 3 June, 28 June and 22 July, 2011.

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

- (i) Background Note on the Bill and Note on the clauses of the Bill received from the Department of Higher Education;
- (ii) Presentation made and clarifications given by the Secretary, Department of Higher Education;
- (iii) Memoranda received from organizations/individuals;
- (iv) Feedback received from the Department on the questionnaire and the issues raised by the Members during the course of the oral evidence of the Secretary; and
- (v) Replies to questionnaire received from the stakeholders.

6. The Committee considered the Draft Report on the Bill and adopted the same in its meeting held on 22 July, 2011.

7. Two notes of dissent given by Shri Prasanta Kumar Majumdar and Shri P.K. Biju are appended to the Report.

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

NEW DELHI;
July 22, 2011

Asadha 31, 1933 (Saka)

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

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

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

REPORT

I. INTRODUCTION

1.1 The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 was referred to the Department-related Parliamentary Standing Committee on Human Resource Development by the Hon'ble Chairman, Rajya Sabha under Rule 270 of the Rules of Procedure and Conduct of Business in the Council of States on 13 May, 2010 for examination and report.

1.2 The Statement of Objects and Reasons to the Bill reads as follows:—

“The enactment of a legislation regulating entry and operation of all the foreign educational institutions is necessary to maintain the standards of higher education within the country as well to protect the interest of the students and in public interest. The object of the proposed legislation is to regulate entry and operation of foreign educational institutions imparting or intending to impart higher education or technical education or practice of any profession in India (including award of degree, diploma and equivalent qualifications by such institutions) and for matters connected therewith or incidental thereto”.

1.3 The Secretary, Department of Higher Education, in her deposition before the Committee on 31 January, 2011 gave the background for bringing the proposed legislation. Committee's attention was drawn to a study conducted by the Association of Indian Universities (AIU), as per which a total of 631 Foreign Education Providers were operating in the country in 2010. Out of this, 440 were functioning from their respective home campuses, 5 had opened their own campus in India, 60 had programmatic collaboration with local institutions, 49 were operating under twinning arrangements and 77 had arrangements other than twinning or programmatic collaboration. Another data compiled by AIU showed an upward trend in the Foreign Education Providers advertising in India from 144 in 2000 to 631 in 2010.

1.4 The Committee was given to understand that due to absence of a centralized policy or any regulatory regime for Foreign Educational Institutions, it had been very difficult to make meaningful assessment of their operations and absence of such meaningful assessment had given rise to chances of adoption of various unfair practices, besides commercialization. At present, only the All India Council for Technical Education (AICTE) had notified regulations for entry and operation of Foreign Educational Institutions in India namely, Regulations for Entry and Operation of Foreign Universities/Institutions imparting Technical Education in India, 2005, which are limited to technical education only.

1.5 The Committee was also informed that the present legislative proposal was inter-linked with several other legislative proposals pertaining to different crucial aspects of higher education like setting up of Educational Tribunals, prohibition of unfair practices in higher educational institutions, their mandatory accreditation and setting up of an over-arching Commission subsuming all the existing regulatory bodies.

1.6 The Committee was then given an idea about the positive impact of and possible benefits arising on the enactment of the proposed legislation. It was emphasized that setting up of Foreign Education Providers would contribute to meeting the most popular demand of students for vocational and skill development courses like Business Management and Hotel Management Courses. Committee's attention was drawn to a study conducted by AIU in 2006 which showed that approximately 75 per cent of the courses conducted with foreign collaboration were Business Management and Hotel Management courses. Access of Indian students in innovative areas of

studies and enhanced research opportunities was cited as the second likely benefit. The Committee was given to understand that in spite of a number of initiatives taken by the Department in this direction, steps were still required to be taken to facilitate quality foreign institutions in the country in order to spur innovation and research in emerging areas. The existing institutions would also have the opportunity of learning from these institutions and emulate their example. Further, the Government target to enhance over time the expenditure on education as a percentage of GDP to 6 per cent would only be achievable with supplementary non-Governmental efforts as public outflows would remain insufficient. It was expected that Foreign Education Providers would be able to contribute, even though marginally, to enhancing the non-public investments in education. Lastly, Committee's attention was drawn to the very disappointing Gross Enrolment Ratio of the country in the higher education sector when compared with that of other countries. India's GER of 12.5 per cent in higher education was lesser than the average of 13 per cent of developing countries. For this, new institutions needed to be set up in both private and public sector. It was expected that the establishment of Foreign Educational Institutions would also contribute, though in a somewhat limited manner, to the over-all increase in GER for India.

1.7 During the course of deliberations, representative of the Department as well as the Chairman of UGC dwelt at length on the international scenario with regard to entry and regulation of Foreign Educational Institutions. The Committee was apprised that there were seven models available worldwide. First model was where there were no regulations at all, with no restriction on anybody setting up an educational institution in a particular country. France was one such country. Second one was a liberal model wherein certain minimum conditions were to be met by the foreign institutions for operating in a country. Third one was the moderate liberal model available in Australia and Singapore, where accreditation and fulfillment of certain norms laid down by the host country were mandatory. Fourth one was transitional model, very restrictive moving towards liberal model, being followed by countries like Japan and South Korea. Fifth model could be considered the one that was prevalent in India where there was no law. It was proposed to shift from a very-very liberal model, where everybody was operating and without any knowledge of as to who was operating and under what mechanism. Sixth model was the restrictive one followed in countries like South Africa and UAE where specific terms and conditions laid down by the host country were to be followed. Last model was the very-very restrictive model, being followed by countries like Belgium and Greece. It was impressed upon the Committee that India's interest would be best served not by prohibiting the Foreign Educational Institutions but by having a law for judiciously regulating such institutions so as to protect the national interest as well as to ensure that our children remained fully protected.

1.8 On a specific query about the Foreign Educational Institutions having approached the country, Secretary informed the Committee that in the absence of any facilitating framework, very few Foreign Educational Institutions had formally applied for setting up institutions in the country so far. US-India Science and Technology Forum was held in January, 2011 attended by ten University Vice-Chancellors. Yale University had entered into an MoU with the Government for guiding leadership development programmes in the country and subsequently taking the partnership forward to another level. Similar proposal had been received from the Cambridge University. The Committee was given to understand that many foreign universities were waiting for a suitable regulatory framework to be put in operation so as to ensure their legitimate entry, without having to be clubbed with other fly-by-night operators.

1.9 **The Committee takes note of the AIU Study which shows an increase in the number of Foreign Education Providers from 144 in 2000 to 631 in 2010. Findings of this study reveal very disturbing trends. Out of the 440 Foreign Universities/Institutions reported to be operating from their home campuses, maximum number (158) were from United Kingdom, followed by 80 from Canada, 44 from USA, 43 from Australia, 32 from New**

Zealand and remaining from countries like China, Holland, Ireland, Japan, Lithuania, Grenada, Armenia, Czech Republic, Dubai, France, Germany, Switzerland, Thailand, Mauritius, Nepal, Russia, Scotland, South Korea, Sweden, Singapore, Malaysia and Ukraine. As many as 277 such Foreign Universities/Institutions did not indicate any website address in their advertisements. Out of the 60 Foreign Education Providers having programmatic collaboration with local institutions, only 25 local institutions were affiliated to Indian Universities/approved by regulatory bodies. Similarly, out of 49 Foreign Education Providers operating under twinning arrangements, only 32 were with Indian Institutions having required approval/affiliation. Lastly, only 25 out of 77 Foreign Education Providers were having arrangements other than twinning or programmatic collaboration with duly approved/affiliated Indian Institutions. What is more disturbing is that AICTE Regulations for Entry and Operation of Foreign Universities/Institutions Imparting Technical Education in India notified on 16 May, 2005 have failed to regulate the activities of Foreign Education Providers dealing with technical education. Only 5-6 institutions running programmes with foreign university collaboration without AICTE approval have been issued show cause notice so far.

1.10 In such a scenario, the Committee strongly feels that there is an urgent need for having a centralized policy and regulatory regime for Foreign Educational Institutions operating in the country. The Committee, therefore, welcomes the proposed legislation which is being brought forward with the twin objective of maintaining the standards of higher education within the country as well as protecting the interest of students. The Committee also feels that enactment of such a legislation will provide enhanced research opportunities and access to innovative areas of study to Indian students.

II. CONSULTATION PROCESS

2.1 The proposed legislation pertaining to a major policy change in a very crucial area of higher education in the country needs to represent the views of all the major stakeholders. On a specific query in this regard, the Committee was informed that the matter relating to entry of foreign universities in India was discussed at the Conference of State Governments on Higher and Technical Education held at Bangalore on 10 and 11 January, 2005. Barring the State of Uttar Pradesh which opposed the entry of foreign universities, the other States were not averse to the entry of foreign universities. Some States felt that such institutions may be allowed only in those fields where the country was deficient. All the States, however, emphasized that proper regulatory and monitoring mechanism should be put in place before allowing Foreign Educational Institutions to operate within India. After those consultations, the Bill was approved for introduction in Parliament in 2007. However, the same could not be introduced.

2.2 Committee's attention was also drawn to the following recommendation of the CABE Committee on Financing of Higher and Technical Education:

“Foreign universities that enter India with a view to exploiting the situation and essentially to raise resources need to be prevented. Tough and detailed regulations are required to enable only those foreign universities having high academic standard wishing to provide good quality education and not having commercial considerations as the main factor behind, to be able to use the provisions in World Trade Organisation (WTO)/General Agreement on Tariffs in Services (GATS) to enter the higher education sector in India”.

2.3 The Committee was given to understand that the present Bill was a minor modification of the same draft. Whereas in the earlier draft, Deemed-to-be University status was to be conferred on Foreign Educational Institutions, the present proposal had done away with the requirement. On being asked about the views of State Governments being sought on the present Bill, the Committee

was informed that modification in the present form of the Bill from the draft referred to the States being entirely on a central subject (institutions being given degree granting powers by an Act of Parliament), no subsequent reference had been made to States.

2.4 On a pointed query about the views of statutory bodies like UGC, AICTE, NCI, DCI, etc., being sought by the Department and their suggestions finding a place in the proposed legislation, the Department informed that formal consultations were held with the concerned Ministries and Departments. This was the prescribed procedure before finalizing the legislative proposal and obtaining Cabinet approval for introduction in the Parliament. It was clarified that no separate formal consultations were held with the regulatory bodies since it was expected that the Ministries concerned would consult the respective bodies while conveying their views. The Committee was also given to understand that neither any Ministry nor any regulatory body had conveyed its reservation at any point of time during finalization of proposed legislation. AICTE already had regulations in place which were more or less modeled on similar lines. UGC, AICTE and NCTE had communicated their concurrence to the proposal.

2.5 It is a well-known fact that over the years, private higher educational institutions have shown a tremendous growth in our country. The views and suggestions of organizations/associations etc. representing these institutions on the proposed legislation are also required like other stakeholders. The Committee, however, was surprised to note that neither the Bill was put in the public domain for seeking suggestions nor workshops, discussions/deliberations were held for knowing the concerns of universities/institutions-both private and Government, teachers, academicians, experts etc. The Committee, accordingly, issued a Press Release on 25 May, 2010, inviting views/suggestions on the Bill from all concerned. Very encouraging response was received on the Press Release. Memoranda from sixty nine stakeholders representing different domains of higher education sector not only in the country but from abroad were received by the Committee.

2.6 The Committee started its deliberations with a preliminary discussion on the Bill with the Secretary, Department of Higher Education on 31 January, 2011. Subsequent to this interaction, the Committee heard the views of Chairman, All India Council of Technical Education (AICTE) on 14 February, 2011. The Committee had the opportunity to hold intensive deliberations with the Chairman, University Grants Commission, Vice-Chancellor, Jawaharlal Nehru University, Vice-Chancellor, Indira Gandhi National Open University on 8 March, 2011. The Committee also heard the Secretary, Ministry of Health and Family Welfare along with the Chairman, Board of Governors, Medical Council of India on 17 March, 2011. Apart from this, the Committee held a series of meetings with a number of organizations/associations/universities both in public and private sector like Vice-Chairman, Kerala State Higher Education Council, representatives of Kamaraj College, Kerala, representatives of Delhi University, Association of Indian Universities, Indian Council of Universities and Education Promotion Society of India. The Committee also held an exclusive meeting with the major student unions such as National Students Union of India, Akhil Bhartiya Vidyarthi Parishad, All-India Students Federation, Students Federation of India, Progressive Students Union on 19 April, 2011 so as to understand their perspective on the proposed legislation. The Committee took note of the views of all stakeholders with respect to problem areas in the proposed legislation, apprehensions and suggestions etc. Memoranda received in response to the Press Release was forwarded to the Department for having its response thereto. Besides that, detailed questionnaires were forwarded to all the stakeholders appearing before the Committee. Detailed questionnaire was also sent to the Department of Higher Education for its comments. The Committee had a final meeting with the Department on 3 June, 2011 for getting clarifications on the various issues emerging after analyzing all the feedback received from the stakeholders. This intensive exercise has proved to be of immense help to the Committee in formulating its views on the various provisions of the Bill.

2.7 As medical colleges are also proposed to be brought under the Bill, the Committee interacted at length with the representatives of the Ministry of Health and Family Welfare and Board of Governors of MCI. The Committee was informed that the Ministry of Health and Family Welfare were consulted in 2006 when the Bill was initially taken up by the Ministry of Human Resource Development. The Ministry of Health and Family Welfare subsequently received a copy of the draft Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 from the Ministry of Human Resource Development on 5 October, 2009. The Bill was further discussed with the Committee of Secretaries on 7 and 11 December, 2009. Following this, a modified version of the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 was received from the Ministry of Human Resource Development. The Committee was informed that apart from specific comments with regard to the role of regulatory bodies dealing with medical education, the Ministry of Health and Family welfare had conveyed its concurrence on the Bill.

2.8 The Committee also takes note of the following concerns expressed by the Ministry of Health and Family Welfare and Board of Governors of MCI:

- Medical education is just not education, it is a service domain. Keeping in view patient safety, condition of having a temporary licence for a foreign teacher or doctor coming to India as mandated by MCI will have to be enforced and monitored.
- Standards and norms of the home country regulator of Foreign Educational Institution have to be at par with those of the Indian regulatory agencies.
- A clause on the medical ethics of different countries and the level of ethics required in our country needed to be included.
- Corpus of fifty crore rupees would be inadequate for Foreign Educational Institutions setting up medical colleges/hospitals in India.
- So far as medical education is concerned, there needs to be some connection to Indian conditions which can be built into the syllabi and curricula used.
- Foreign Education Providers establishing foreign medical institutions will also be running hospitals. Issues like adherence to MCI norms and mechanism of charging for services provided in such hospitals needed to be examined.

2.9 Although the Department has sought to allay the aforesaid doubts by saying that all the foreign medical institutions would be governed by the relevant Indian Acts in the area of medical education, the Committee feels that the doubts raised and modifications suggested by the Ministry of Health and Family Welfare should have been fully taken care of in the proposed Bill. This would have brought more clarity to the Bill and would obviate any ambiguity therein. The Committee, therefore, recommends that the Department may bring necessary modifications in the Bill, so as to make it more comprehensive by including specific provision for medical education thereby safeguarding the interests of students as well as other stakeholders.

2.10 Committee's interaction with Chairman, UGC and Vice-Chancellor, JNU proved to be very fruitful. The proposed legislation was considered by and large a positive step of the Government providing a structured regulatory mechanism for foreign educational institutions by both these stakeholders. However, it was pointed out by the Chairman, UGC that the law pertaining to foreign educational institutions prior to their entry needed to be separated and they ought to be treated differently in terms of ensuring their standing and credibility. But on their being notified and becoming Indian entities, they ought to be treated at par with private unaided institutions. On this issue being taken up with the Department, it was assured that the rigour exercised prior to the

notification of a Foreign Educational Institution as a Foreign Education Provider shall ensure that only Foreign Educational Institutions with high standing and credibility were notified to operate as Foreign Education Provider.

2.11 The Committee also takes note of some very pertinent issues raised by the Vice-Chancellor, JNU as indicated below:

- The standing of the institution in the country in terms of the rankings in different subject fields needs to be looked into.
- Modalities of regulating or even framing guidelines for admission process, fee structure for different subjects at different levels, pay structure for faculty need serious consideration.
- FEIs need to function as supplementing or complimenting educational institutions in India with a good balanced mix of vocational, professional and higher educational degrees.

2.12 **The Committee is of the view that all the issues raised by UGC and JNU are very crucial and need to be addressed. It would be appropriate if they are suitably incorporated in the Act itself or in the rules/regulations proposed to be framed thereunder. General provision like clause 12 of the Bill regarding applicability of other laws of the country would be too inadequate and not serve the purpose.**

2.13 **The kind of feedback received from other stakeholders compels the Committee to observe that the consultation process which should have been the main factor for formulating such a path-breaking legislation was not given due consideration by the Department. The Committee has made an attempt to make amends by inviting suggestions from all concerned and interacting with the stakeholders to the extent possible. However, such an exercise should have been carried out by the Department before bringing the Bill in Parliament, so that a comprehensive view could have been taken at the drafting stage itself. All such issues/doubts, both general and on specific provisions of the Bill have been addressed by the Committee in subsequent part of the Report.**

III. EXPERT COMMITTEE RECOMMENDATIONS

3.1 The Committee notes that on the recommendation made in the Conference of State Ministers of Higher and Technical Education held at Bangalore on 10-11 January, 2005, an Expert Committee under the Chairmanship of Prof. C.N.R. Rao was constituted. The mandate of this Committee was:-

- to examine the need, relevance, terms and scopes of the entry and operations by foreign universities; and
- to suggest an appropriate mechanism relating to access and quality in respect of foreign universities permitted to operate in India.

3.2 **The Committee observes that a number of recommendations made by the CNR Rao Committee are reflected in the proposed legislation. However, the Committee is surprised to note that many significant and very relevant recommendations/observations made by the Expert Committee as indicated below have not been found acceptable by the Department:**

- **approvals may be in two parts: first for a limited initial period on a trial basis and second, for a longer term approval after review of performance in the initial short term.**

- **Initial short-term approvals may be considered only for those foreign providers who are accredited in their own country. In all such cases, the latest detailed audit report of the accreditation agency must be submitted with the application**
- **Franchising/Off-Shore Study Centres should be discouraged.**
- **Desirable forms of entry would be : Twinning, Programmatic Collaborations.**
- **Adequate safeguards will have to be put in place to guard against poaching of faculty from established Indian Institutions.**
- **Private initiatives, local and foreign may be allowed but only on equal terms. Thus, if private foreign education providers are allowed, then domestic private operators will also have to be allowed.**

3.3 On being asked to clarify its stand on the above very crucial recommendations made by the CNR Rao Committee, the Department contented that the suggestion for allowing Foreign Educational Institutions for a limited short term entry may lead to uncertainty, both for students and those employed as teachers or non-teaching staff. Winding up of an institution of higher education was also a very difficult process. Accordingly, de-recognition and rescission of notification of Foreign Education Provider rather than differential time-period based approval regimes have been provided in the Bill.

3.4 It was also clarified that franchising was not being permitted as the track record of Foreign Educational Institutions would be the criterion. With regard to the recommendation about mandatory condition of accreditation for Foreign Educational Institutions, the Committee was given to understand that this aspect had been fully taken care of in clause 4 of the Bill. On the suggestion for entry of Foreign Educational Institutions, only through twinning/programmatic collaboration, attention of the Committee was drawn to the definition of the term 'Foreign Educational Institution' which included twinning arrangement with any educational institution in India.

3.5 Suggestion for providing adequate safeguards against poaching of Indian faculty was also not found acceptable by the Department. Justification given was that the trend of outstanding teachers joining institutions abroad was already there in the country. Exodus of faculty will at least be within the country and not outside. Committee's attention was also drawn to the possibility of teachers currently employed abroad being attracted by Foreign Education Providers to come to teach in India.

3.6 Lastly, on the issue of entry on the basis of reciprocity, contention of the Department was that the Indian Institutions were already covered under the regulatory framework of the existing laws and there was a need for a different law for foreigners, even while subjecting them to national treatment.

3.7 Committee's efforts to ascertain the views of stakeholders which included UGC, AICTE, JNU and those representing higher educational institutions in the private sector elicited a positive response to the aforesaid recommendations made by the CNR Rao Committee not finding place in the proposed legislation. **The Committee would like to point out that these recommendations of the Expert Committee are based on genuine concerns about the protection of our young students in every respect. The Committee feels that recommendation regarding initial approval that too for only those Foreign Education Providers duly accredited in the home country followed by extension of approval after review of their performance needs to be looked into. The Committee would like to point out that clause 4(3) as presently worded does not make the accreditation status of Foreign Education Provider mandatory. The Committee is also not inclined to agree with the contention of the Department that**

franchising was not being permitted in view of track-record of Foreign Educational Institution being the criterion. The Committee would like to point out that as per clause 13, Foreign Educational Institutions conducting certificate courses are only to report their activities to the Commission and publish the required information on their website. Such Foreign Educational Institutions can operate not only on their own but also through collaboration or partnership and franchising can be a partnership between a Foreign Educational Institution and Indian Institution.

3.8 The Committee would also like to point out that acute shortage of qualified and experienced Faculty in higher educational institutions in the country is a cause of serious concern. Nobody would deny the fact that with the entry of Foreign Educational Institutions in the country, this problem is bound to aggravate further. The Committee, therefore, strongly feels that as recommended by the CNR Rao Committee, Government has to put in place adequate safeguards against poaching of Indian Faculty by Foreign Educational Institutions. The Committee would like to emphasize that all these recommendations of the CNR Rao Committee need to be suitably reflected either in the Act or rules/regulations to be made thereunder.

3.9 Committee's attention has also been drawn to the following recommendations of a research study conducted by the National University for Educational Planning and Administration (NUEPA) in 2005:

- Demand and supply chain in higher education must balance as per the priority of a country.
- Trade-based internationalization of higher education leading to commercialization must be checked.
- There should be mutual recognition of the degrees by respective countries as well.
- NAAC should be allowed to accredit foreign programmes and examine the academic credit worthiness of foreign institutions.

3.10 The Committee strongly feels that concerns raised in the NUEPA Study are very crucial and relevant and need to be looked into before the proposed legislation is enacted. The Committee is of the view that expert committees set up by Government and study conducted by its bodies should be given due importance, specially when a major policy change in higher education sector involving the interest of young students is going to be made.

IV. STATUS OF FOREIGN EDUCATIONAL INSTITUTIONS IN OTHER COUNTRIES

4.1 The Committee observes that Foreign Educational Institutions have been operational in several countries like Malaysia, China, Singapore, Australia, Indonesia, New Zealand for varying periods of time. Details made available to the Committee indicate that all these countries are regulating the entry and operation of Foreign Educational Institutions as per their own law based on their requirements. However, there are some common features prevalent in all these countries. Entry of Foreign Educational Institutions is invitation-based in countries like Malaysia and China, with an additional condition of partnership with Chinese Institutions. Similarly, accreditation as per local standards is a mandatory criteria for Foreign Educational Institutions in Malaysia, Australia, Indonesia. All courses offered by Foreign Educational Institutions have to be approved locally in New Zealand.

4.2 On a specific query in this regard, conditions of mandatory accreditation at home and entry by invitation and partnership with local institutions was found by and large acceptable by AICTE,

JNU and Ministry of Health and Family Welfare. As per UGC, the need of each country is moved by its unique requirement in a given socio-economic scenario. The Bill in its present form needs to be maintained as it aims to achieve the objective in the Indian context.

4.3 The Committee takes note of all the models or guidelines adopted by different countries regulating the entry and operation of foreign educational institutions. Different countries have legislation in this regard which suit their own system. The socio-economic set-up of India is different from the other countries which cannot be blindly followed. The Committee is of the view that experience of these countries where Foreign Educational Institutions have already been operating needs to be analysed and conditions like entry by invitation and mandatory accreditation in home country can be adopted, at least for the initial years. The Committee finds no harm in a cautious approach in the initial period so as to fully protect the interest of students as well as maintain the required standard of higher education.

V. CONSTITUTIONAL VALIDITY OF THE BILL

5.1 During the course of deliberations, Committee's attention was drawn towards the issue of constitutional validity of the proposed legislation raised by the Indian Council of Universities. Challenging the very basis of bringing the Bill, the Council contended that the Parliament could not enact a law to incorporate, regulate and wind up universities because the Constitution of India, by virtue of Entry 44 of the Union List and Entry 32 of the State List under Seventh Schedule, categorically debarred Parliament to legislate on the matters related to "Incorporation, regulation and winding up of Universities". It was also pointed out that shifting of subject "Education" from State List (by omitting Entry 11) to Concurrent List (by substitution of Entry 25) by 42nd Amendment to the Constitution in the Year 1976 did not bring any impact on the Entry 44 of Union List which debarred the Parliament to legislate on subject "Incorporation, regulation and winding up universities" as well as Entry 32 of State List which conferred the States with exclusive power to legislate on these subjects. Power to legislate on any matter concerning incorporation, regulation and winding up of Universities vested with the States only ever since the Constitution came into force.

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

"The Ministry does not agree that the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 is unconstitutional. The Bill has been introduced in Parliament only after examining its constitutionality and was drafted in consultation with the Legislative Department of the Ministry of Law and Justice (Legislative Department).

The competence to legislate on matters concerning coordination and determination of standards of higher education and research lies with Parliament, by virtue of Entry 66 of List 1 (Union List of the 7th Schedule of the Constitution. It may be pertinent to mention that this Entry has remained in the Union List ever since the Constitution came into force on 26th January, 1950 and no constitutional amendment transferring this Entry from any other List has ever taken place. The reference about the transfer of education to the Concurrent List from the State List under the 42nd Amendment refers to the present Entry 25 in the Concurrent List and the earlier Entry No.11 in the State List. The said Entry 25 in the Concurrent List reads as under:-

"Education including technical education, medical education and universities, subject to the provision of Entry 63, 64, 65, 66 of List 1."

Therefore, the exercise of powers in respect of any matter concerning education is subject to the provision of any law made under Entry 66 of List 1. This has been upheld by the

Supreme Court in various judgements. Reference is made to the first such judgement of the Hon'ble Supreme Court in the matter of "Gujarat University Ahmedabad" Vs. Krishna Ranganath Mudgaonkar and Others (1963) SCR 112 wherein it was clearly laid down by the Supreme Court that any legislation made by virtue of the then Entry 11 in the State List would have to yield to any legislation made under Entry 66 or any regulation made by a body so created under Entry 66.

The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 in its clause 4(8) provides for notification by the Central Government, of a Foreign Educational Institution (FEI) to operate as a Foreign Education Provider (FEP) for the purpose of award of degree or diploma or equivalent awards in India. Such notification is incumbent upon the Registrar and Commission being satisfied, under clause 4(3) to (7) of the Bill that the Foreign Educational Institution meets the requirement to provide quality education in India. The legislation, therefore, empowers the Central Government to *notify* a Foreign Educational Institution on the basis of assurance of quality as a Foreign Education Provider. It is, therefore, squarely in the domain of Entry 66 of List 1, *i.e.*, "Determination of standards of higher education and research." It may also be mentioned that even Universities established by State Legislatures can be regulated by University Grants Commission (UGC) which has been created to sub-serve the purposes of the said Entry 66. By way of example, while State Legislatures are competent to establish, regulated and wind up universities under item 32 of the State List, Supreme Court has upheld that competence of the UGC to regulate private universities established by State Legislatures in discharge of the Commission's responsibility to coordinate university education [Yash Pal & Anr. Vs. State of Chhattisgarh & Ors.] AIR 2003.

As the Bill also provides for crediting monies into the Consolidated Fund of India, it attracts the provisions of sub-clause (c) of clause (1) of Article 110 of the Constitution of India and hence recommendation of the President was also obtained as required as per provisions of Article 117 (1) of the Constitution.

In view of the foregoing, the Ministry does not agree with the contention that the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 is unconstitutional".

5.3 The Committee is of the view that reservation of the Indian Council of Universities about the Constitutional validity of the proposed legislation does not seem to be well-placed. As rightly pointed out by the Department, after insertion of Entry 25 in List III in 1976, Parliament is fully competent to legislate on matters relating to higher education, including universities. One must also not forget that the enactment of a legislation regulating entry and operation of all the foreign educational institutions is necessary to maintain the standards of higher education within the country as well to protect the interest of the students and in public interest. In such a scenario, education being in the Concurrent List, initiative taken by the Department for formulation of a Central Law should be considered a welcome step by all concerned.

VI. GENERAL ISSUES

6.1 Committee's interaction with various stakeholders and also the memoranda received in response to the Press Release had highlighted a number of crucial issues linked directly or indirectly with likely impact of the proposed legislation on the higher education sector in the country as well as interests of student community. The Committee took up all these issues with the Department so as to have an idea about the thinking of Government as well as allay the apprehensions of the stakeholders.

Reservation Policy

6.2 Some of the stakeholders, specially the student unions and University and College Teacher's Organization drew the attention of the Committee to the lack of provision of reservation for the deprived sections of the society in Foreign Educational Institutions proposed to be set up in the country. It was pointed out that reservation for SC/ST and OBC Students in Government higher educational institutions had provided access to such students not only to quality education but also resulted in making good job opportunities within their reach. However, the tremendous growth of self-financing institutions which were not mandated to have reservations has somewhat proved to be a setback for them. It was pointed out that same norms made applicable on FEIs would complicate the situation further in the country.

6.3 It was clarified by the Department that Foreign Educational Institutions once established in India would be accorded national treatment. The provisions of the existing laws of the land would apply equally to them as provided for in clause 12 of the Bill. At present, there was no law which mandated reservations in purely private funded institutions. As and when such a law was enacted, its provisions would be applicable to all institutions, including those in higher education sector and also applicable on Foreign Educational Institutions.

6.4 The Committee endorses the view of the Department that since the reservation law is not applicable to private higher educational institutions, at present, it can not be made applicable to Foreign Educational Institutions also for the time being. However, as and when a law is enacted by Parliament to provide for reservations in private higher educational institutions, the same will be applicable to Foreign Educational Institutions also.

Independent regulatory mechanism for safeguarding the interest of students studying in FEIs

6.5 The Committee observes that the Bill as envisaged does not have an independent regulatory mechanism for safeguarding the interest of students studying in Foreign Educational Institutions. On being asked about the need for such a mechanism, UGC stated that prior to the entry of foreign universities, they ought to be treated differently in terms of ensuring their standing and credibility. However, on their being notified and becoming Indian entities, they ought to be treated at par with private unaided institutions. View of AICTE was that regulation/monitoring of functioning of Foreign Educational Institutions should remain similar to other educational institutions since the interests of students studying in Foreign Educational Institutions would remain the same. The Ministry of Health and Family Welfare was also of the view that institutions run by Foreign Education Providers certainly needed to be regulated/monitored on the same basis as Indian educational Institutions. However, the nature of the regulatory agency had to be decided, which could be MCI or some other equivalent regulatory agency. Such a provision was also found acceptable by the US-India Business Council.

6.6 On being asked to clarify the position, the Department admitted that there was no separate regulatory mechanism provided for in the Bill. It was clarified that the Government was obligated by the Bill to protect the interests of students and teachers and employees of Foreign Educational Institution if the recognition was withdrawn. The Bill also provided UGC with powers to frame regulations for regulating the functioning of Foreign Educational Institutions as per clause 15 (2) (c).

6.7 The Committee is of the opinion that although UGC has been empowered to regulate the entry and operations of the Foreign Educational Institutions but it does not have enough teeth to effectively deal with Foreign Educational Institutions in the stricter sense of a regulator required for the purpose. The Committee therefore, desires that an independent body should be there specifically for better effective monitoring of the wide ranging areas

such as curriculum, fee, faculty, salary structure etc. from the point of view of its implication in the Indian scenario as well for protecting the interests of students, teachers and other employees. The Committee would also like to point out that clause 15(2)(c) is a general provision giving powers to UGC to make regulations on any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations. In the light of what has been stated earlier, the proposed Bill must clearly define the nodal regulatory entity to define guidelines, prescribe the rules, procedures and regulations which need to be adhered to as well as develop a robust capability of monitoring their compliance. Leaving these functions to several severed entities, will lead to contradictions.

6.8 The Committee also takes note of AICTE Regulations for Entry and Operations of Foreign Universities/Institutions imparting Technical Education in India, 2005 which are limited to technical education. One of the objectives of these Regulations is to safeguard the interest of student community in India and ensure uniform maintenance of norms and standards as prescribed by various statutory bodies and also to enforce accountability for all such educational activities by Foreign Universities/Institutions in India. These Regulations, accordingly, have specific provisions about inspection of Foreign Educational Institutions, submission of Annual Reports to AICTE, accreditation by NBA and mandatory nature of advice given by AICTE to such institutions. The Committee finds that these Regulations could be framed due to specific powers and functions given to AICTE under the Act itself. However, no such powers are envisaged to be given to UGC or any other body or Council or Commission established under any Central Act for the time being in force to regulate the entry and operation of Foreign Educational Institutions. The Committee is of the view that power of withdrawal and rescission of notification of Foreign Educational Provider given to UGC cannot be equated with the other regulatory and monitoring functions as provided for in the AICTE Regulations. The Committee, accordingly, is of the view that specific powers need to be incorporated in the Act itself so as to facilitate the framing of regulations once the Act comes into force.

Migration of Faculty

6.9 During the deliberations of the Committee, one of the most vocal concerns raised by majority of the stakeholders pertained to the availability of quality faculty in the country. The Members of the Committee also raised this issue and anticipated problem of migration of faculty from premier higher educational institutions, both in Government and private sector towards the Foreign Educational Institutions. The problem was found to be more acute in medical and technical institutions. Ministry of Health and Family Welfare informed the Committee that there was an acute shortage of qualified faculty for medical colleges due to their inability to offer higher salary packages. It was also clear that any institution of medical education set up by a Foreign Educational Provider, would not be a charitable organization nor would it be run as a Government institution but on the contrary it would be a 'for profit' institution. It was, accordingly, certain that both the fee structure and the salary structure would be higher in Foreign Educational Institutions than in Government institutions. It was equally true that qualified faculty could not be prevented from seeking what they perceived to be better career opportunities. AICTE, UGC and JNU also pointed out that there was indeed acute shortage of qualified faculty in several disciplines. There may be a movement of quality Indian faculty to Foreign Educational Institutions, if their salary packages were found more attractive. Steps needed to be taken to avoid aggravating the faculty crunch, by making the salary packages and academic infrastructure comparable.

6.10 Similar concern was shown by other stakeholders such as Association of Indian Universities, Education Promotion Society of India, Indian Council of Universities, Rakshak

Foundation. It was pointed out by the Association of Indian Universities that Foreign Educational Institutions would not be bringing their teachers from their countries as it would be a very costly proposition. Rather employment of local teachers would be a more convenient and financially profitable proposition. To prevent this trend, it was suggested that the Bill should make it mandatory for Foreign Education Providers to bring at least 50 per cent of their faculty members from their parent and associated institutions outside India for at least in first ten years of their operation in India. This percentage of faculty members could be reduced gradually every year. It was also anticipated to attract NRIs working abroad to their home country.

6.11 When this issue was raised with the Department, it was pointed out that for the present, there was nothing to restrain a teacher from leaving one institution for another for reasons of emoluments, research, better career opportunities and teaching freedoms and locational convenience. It was also emphasized that exodus of faculty, if at all it took place, would be at least within the country and not outside. Even at present, outstanding teachers were leaving their institutions and going abroad for various reasons. With the entry of Foreign Educational Institutions, this trend could get arrested or at least slowed down.

6.12 The Department further stated that as envisaged in the Bill, the quality of teachers engaged by Foreign Education Providers would have to be comparable to the standards prescribed by the regulatory authority. Committee's attention was also drawn to the problem of qualified persons not having sufficient job opportunities in the country. In many state institutions, the recruitment of faculty was not found to be very encouraging. It was also contented that the potential of Foreign Education Providers to attract high quality of teachers currently abroad to come and teach in India could also be leveraged, resulting in net gain for the country. The Department also informed the Committee that prescribing a cap on the numbers and disallowing migration between universities would not be possible as once the Foreign Education Providers had been allowed to operate, it would be governed by the domestic laws and such a restriction may also infringe the right to freedom of employment or that of movement.

6.13 Another area of concern raised by AIFUCTO was that Foreign Educational Institutions would be bringing only second or third grade teachers to India and wean away excellent teachers, thus depriving our institutions of their services. This would ultimately lead to impoverishment of Indian institutions. It was also cautioned by NSUI that entry of Foreign Educational Institutions should not weaken the academic resources of the existing institutions in the country. Foreign Educational Institutions being allowed to have foreign teachers as full time faculty members and permitting Indian nationals with foreign degrees to teach in India were the two solutions suggested by NSUI.

6.14 The Committee appreciates the concern expressed by the various stakeholders regarding shortage of faculty already existing in the country. Increasing number of higher educational institutions being set up, both in the Government and private sector has led to a situation when acute shortage of qualified and experienced faculty is being faced across the country. A number of initiatives taken by the Government to attract young students towards teaching profession have so far failed to show any significant improvement. In such a scenario, with the arrival of Foreign Educational Institutions/Foreign Education Providers, this problem is bound to get further aggravated. There will definitely be migration of qualified teachers from prestigious institutions towards the Foreign Educational Institutions during the initial years. This will further aggravate the shortage of qualified teachers in the native institutions, be it Government or private institutions. The Committee, therefore, opines that some viable norms can be prescribed regarding the hiring of teachers by Foreign Education Providers from India and bringing in some percentage of the faculty from their country. An indirect positive impact of having such an arrangement would be that Indian

teachers would get an opportunity to work in tandem with their foreign counterparts and *vice-versa*. In the process, Indian students will also stand benefited. The issue of the shortage of adequate, trained, high quality faculty needs to be addressed in a broader context of not only the needs of foreign education providers, but the health of existing educational institutions and the massive expansion programme consequent on the commitment to improve the Gross Enrollment Ratio. The Ministry must come up with a White Paper delineating a credible action plan seeking both conventional and innovative solutions to address this issue in a time-bound manner.

Location of Foreign Educational Institutions

6.15 Issue of need for prescribing some norms for deciding the location/place where Foreign Educational Institutions could be set up in the country was also raised by some stakeholders. On a specific query in this regard, attention of the Committee was drawn to the proviso to clause 4(7) which provides that the Commission (UGC or successor body) shall, while making the recommendation take into account sensitivity of the location, which could *inter alia* be one of the grounds for rejecting the notification for registering a Foreign Education Provider.

6.16 While agreeing with the clarification given by the Department, the Committee would like to point out to another aspect of this issue which may create complications in future. Higher education in the country has witnessed a tremendous growth both in the private and Government sector. While there is no doubt that more and more institutions are within the reach of our students, it has also led to an unbalanced expansion. There are States having very high concentration of institutions offering various professional courses. In contrast, many States continue to lag behind. Concerns have also been raised about Foreign Educational Institutions being set up, by and large in big cities. In such a scenario, the Committee is of the view that besides sensitivity of the location, availability of higher educational institutions in that particular area should also be the criterion for grant of approval to a Foreign Educational Institution. Given large regional disparities in levels of education and footprint of educational institutions, Government must consciously foster arrangements in the location pattern of foreign institutions to mitigate these imbalances.

FEIs will restrict to only more popular and profitable courses

6.17 One of the apprehensions expressed during the Committee's deliberations was that the Foreign Educational Institutions would undertake courses which were more popular and profitable and avoid other important courses. The student unions were of the opinion that the Bill was going to have a serious impact on the future of basic sciences and humanity courses as Foreign Education Providers would ignore such basic courses for making money by giving more priority to professional courses. It was pointed out by AICTE that courses like IT and Computer Science being upwardly mobile and providing good job opportunities would always remain popular among student community. UGC was of the view that there was a need to ensure balanced growth of higher education. A balance between Humanities and Social Sciences and Languages needed to be arrived at. Contention of JNU was that Foreign Educational Institutions should be allowed only in select subject areas where strengthening was required.

6.18 Committee's attention was also drawn by AIFUCTO to the fact that only marketable courses like management and other hospitality management were being offered by the Foreign Educational Institutions operating in the country. Situation would remain unchanged after the enactment of the proposed legislation, creating a mismatch between what we need and what is offered.

6.19 The Department, however, informed the Committee that there was no such proposal to restrict the access of Foreign Educational Institutions in certain courses and programmes as such

an approach may not be a feasible option. As per the AIU study, most of the Foreign Educational Institutions were operating only in the area of professional and vocational education. Hence, it was expected that Foreign Educational Institutions would opt for the programmes which were in demand and restrictions imposed from the Government side may not work out in such a scenario. It was also clarified that universities, even domestic, public or private were autonomous in their academic pursuit. It was equally true that almost all world-class Foreign Educational Institutions were highly rated in both basic and social science teaching as well as research. It was, therefore, for the Foreign Education Providers to decide on courses of study to be offered in the institutions set up in India. Further, trend in good universities was to emphasize on inter-disciplinary learning to complement holistic knowledge.

6.20 The Committee takes note of the apprehensions of the stakeholders as well as the limitations of the Government in restricting the Foreign Educational Institutions to offer specific courses. It is equally true in the context of Indian higher educational institutions, specially in the private sector. Professional courses like management, computer science and IT continue to show an ever-increasing demand, resulting in an unbalanced growth. Situation has reached to such an alarming level that basic science and humanities courses are being sidelined. In such a scenario, entry of Foreign Educational Institutions would worsen the situation further. As per a study conducted by NUEPA in 2004, only 5 out of 131 Foreign Education Providers in India were offering general courses like BA/BSc. and as many as 55 were offering Hotel Management and 45 MBA. The Committee finds that the situation has remained unchanged. As per AIU study of 2010, out of 60 Foreign Educational Institutions operating through academic collaboration, only one or two were offering general courses. Similarly, all the 49 Twinning Programmes were restricted to MBA, Hotel Management courses only. The Committee is of the view that as suggested by AICTE, industry job mapping *vis-à-vis* the number of seats available in each discipline should be undertaken in the country so as to have an idea about the ground realities. Based on these findings, feasibility of allowing operation of FEIs for specified courses can be explored and implemented accordingly.

Examination Pattern

6.21 Examination pattern followed by Foreign Educational Institutions and the nature of degrees to be granted has also raised concern. It was pointed out by the Ministry of Health and Family Welfare that if the purpose of bringing this legislation was that Foreign Education Providers would bring higher standards relating to universities abroad, then the examination pattern as well as degree should be that of foreign country. At the same time, it was also emphasized that in the context of medical education, some connection to Indian conditions was also required which could be built into the syllabi and curricula used.

6.22 On a specific query in this regard, the Department clarified that the courses offered and programmes of study conducted by the Foreign Educational Institutions shall be in conformity with the standards laid down by the regulatory authority and would be of quality comparable, as to the curriculum, methods of imparting education and the faculty employed, to those offered by it to students enrolled in its main campus in the country in which such institution was established or incorporated. The Committee is of the view that the modalities and the time-frame for achieving this objective as a broad vision would need to be separately evolved. It was further clarified that the degrees granted would be Indian degrees as recognized under section 22 of the UGC Act. No uniform pattern of examination could be prescribed since the universities were autonomous entities and had the freedom to determine the examination pattern, best suited to needs of students and requirements of quality. The Indian universities were also not following any uniform examination pattern. Accordingly, the Foreign Educational Institutions would also have to devise examination

pattern, keeping the courses or the curriculum in mind. **The Committee agrees with the reply of the Department in view of the autonomous status of the universities in the country.**

Vacant Seats in Technical Institutions

6.23 Another very vital apprehension raised by the stakeholders was that already a large number of seats remained vacant in technical educational institutions and with the entry of Foreign Educational Institutions, this situation would further worsen. Agreeing with this apprehension, AICTE clarified that it was the perception of students as to which discipline was good at certain point of time, and they, accordingly, went for the same. Hence, seats in some courses like Production Engineering, Textile Technology, Instrumentation Engineering, Metallurgy etc. remained vacant. Skewed growth would continue to exist if seats were enhanced in perceived potential areas. However, UGC pointed out that there were a variety of other reasons for seats remaining vacant, specially in technical educational institutions. Not only this, technical education was only a segment of higher education. Entry of foreign institutions offering mixed basket of programmes would not affect the higher education sector in the country.

6.24 Assessment of the Department on this issue was that in some States, the number of seats available for engineering courses were in excess of the number of students opting for these courses, resulting in seats remaining vacant. It was also pointed out that the lack of demand for certain streams reflected the pattern of demand in the employment sector and Foreign Education Providers were not expected to over-supply in such streams.

6.25 The Committee strongly feels that the need of the hour is overall development of higher education sector as India is looked upon as an economic power and prospective education hub. It was expected that the Department would ensure that the growth of this sector takes place uniformly encompassing all areas of higher education in the country. As far as possible, the skewed growth in one area and the neglect of another should be avoided which may prove harmful for the country. A balanced growth is what is needed at this juncture. The Committee, accordingly, recommends that an assessment at the ground level about the percentage of seats being offered in different programmes of higher education, both in the private and Government sector needs to be undertaken at the earliest. Only then, a clear picture about the demand and supply level would emerge. With the entry of Foreign Educational Institutions, urgency of such a survey has become more evident. Department being the nodal agency, has to play the lead role in co-ordination with State authorities. It should be a formal survey which needs to be cast in a dynamic context keeping in view both existing and emerging demand. This survey to be undertaken by the Department through a professional agency equipped to do so, should be in conjunction with corporates, service providers and all stakeholders, to determine the emerging demand pattern for bringing about a greater equilibrium between demand and supply.

Entry of low ranking institutions

6.26 Some of the stakeholders expressed the view that only low ranking universities/Foreign Educational Institutions were likely to enter the country with an aim to exploit the situation for their own benefit rather than contribution to the country in this regard. These institutions may not be able to provide quality education as was being envisaged by the Government. They further stated that to obviate this problem, ranking of the foreign institutions in their country of origin should be strictly taken into consideration and only those which fulfilled a specific criteria laid down for the purpose should be granted permission to enter the country.

6.27 The Department when confronted with this possibility of low-ranking universities entering the country, informed the Committee that during the US-India Science and Technology Forum held

in January this year, a number of universities and experts from different universities in USA had expressed their desire to collaborate with India. Ten University Vice-Chancellors had come for this purpose. It further informed the Committee that universities such as Yale and Cambridge Universities etc. were interested in opening their centres in India but they were all waiting for a suitable regulatory mechanism to be put in place. It was also pointed out that already several unscrupulous institutions were operating in the country and more such institutions may enter India. In this regard, the Department stated that the proposed legislation would also ensure that only duly recognized Foreign Educational Institutions would operate in the country.

6.28 The Committee agrees with the apprehensions expressed by the stakeholders in this regard and desires that proper care should be taken, while considering the proposals of Foreign Educational Institutions for operating in the country. The Committee further opines that to begin with, only a specified number of top institutions in the world may be invited to open their centres of excellence in India. In this regard, experience of countries like Malaysia and China where entry of Foreign Educational Institutions was only by invitation can prove to be useful in the initial period. Based on the review of implementation status of the Act, restricted entry can be done away with.

Level playing field

6.29 There was a very strong feeling amongst various stakeholders that the exemptions given to Foreign Educational Institutions be applicable to leading Indian institutions also. Concerns were expressed as to whether there would be a level-playing field for Indian institutions *vis-à-vis* Foreign Educational Institutions.

6.30 Assessment of the Ministry of Health and Family Welfare in this regard was that the laws governing Foreign Educational Institutions were not necessarily required to be on a similar footing because they were already providing high quality education and presumably would maintain a high level of standard. Both level of teaching and maintenance of standard were a serious issue with many private and Government Indian Institutions. It would defeat the very purpose of the Bill, if Foreign Educational Institutions were run on the same line as many Indian institutions were being run at present. At the same time, Foreign Educational Institutions should be allowed to run without interference or any undue regulation. This was of course subject to their compliance with all the norms in their home country, their standards being equivalent to those and some cap on fee and salary structure prevalent in India. UGC was of the view that the law pertaining to Foreign Educational Institutions prior to their entry needed to be separated and treated differently in terms of ensuring their standing and credibility. But once they were notified and became Indian entities, they ought to be treated at par with private unaided institutions. Similar views were put forward by AICTE and other stakeholders before the Committee.

6.31 The Department informed the Committee that Central Universities established by the Central Acts were exercising full autonomy over academic matters, establishment matters etc. The universities were governed by their respective Acts and had freedom to enact statutes for governing their functioning. The present legislation in fact put certain conditions on the Foreign Education Providers, not applicable in case of local universities such as the conditions relating to Corpus Fund, prior recognition of Foreign Education Provider, self-disclosure etc.

6.32 The Committee is aware that institutions in India already enjoy autonomy and similar laws will be applicable on the Foreign Educational Institutions with additional conditions like maintenance of Corpus Fund and non repatriation of funds etc. However, the Committee observes that viewpoint of UGC is the most appropriate one and may be made applicable to Foreign Educational Institutions.

Profit motive of FEIs and their integrity

6.33 Apprehension regarding the Foreign Educational Institutions coming to India purely on profit motive and making money and commercialising their operations was refuted by the Department. The Committee was informed that the Bill prohibited investment of surplus by any Foreign Education Provider for any purpose other than that of growth and development of the educational institution established by it in India. Therefore, transfer of surplus elsewhere did not arise. Moreover, clause 12 also ensured that the provisions of all Indian laws including those relating to preventing commercialization would apply to Foreign Education Providers also.

6.34 On the question of integrity of Foreign Educational Institutions by referring to a recent example of the fate of Indian students in Tri Valley, USA, the Department pointed out that the absence of any regulation would lead to more number of unscrupulous institutions to operate as fly-by-night operators in India. The legislation would ensure that all Foreign Educational Institutions obtained recognition from the Government and conducted themselves as per the regulations.

6.35 The Committee is concerned over the motive of the Foreign Educational Institutions that may enter India. The Committee expects the Department to ensure keeping the unscrupulous institutions at bay by having a viable mechanism of monitoring of these institutions at various levels by the concerned regulatory bodies, both at the Central and State level. The Committee is of the view that recommendations of the CNR Rao Committee as well as the AICTE Regulations can be the benchmark based on which appropriate norms and guidelines and regulations for Foreign Educational Institutions can be formulated.

Students will still go abroad

6.36 The majority of the stakeholders refuted the claim of the Department that with the entry of Foreign Educational Institutions, the number of students going abroad for study would come down. It was pointed out that one of the main reasons for students going abroad was the quality of Post-Graduate and Doctoral Degree programmes, delivered through an innovative methodology and abundant flexibility and getting jobs and settling down there. Even if foreign universities opened up campuses in India, the vast majority of students would still prefer to leave India in search of better education and also to seek better career opportunities.

6.37 The Department agreed with the concern of the stakeholders that mere entry of Foreign Educational Institutions in India may not fully check the out migration of students. The proposed legislation only aimed to reduce this brain drain to some extent. It was also mentioned that the aim of the Bill was not merely to restrict the outflow of students abroad but induce quality improvement of existing domestic institutions through competition and learning from best international practices, providing an avenue to students to study in world-class international institutions without leaving India and also to create a legislative framework for regulating entry and operation of Foreign Educational Institutions.

6.38 The Committee also believes that the trend of students going abroad for higher studies may not stop with the enactment of this legislation. However, it can be curtailed by ensuring that the Foreign Educational Institutions which set up their centres here live upto the expectations of the students. The Department has to ensure that, as said in the previous paras, Foreign Educational Institutions should retain their original status and high standard by employing highly qualified faculty, best teaching techniques, ambience etc. Moreover, institutions involved in research programmes and PG, doctoral programmes are bound to attract increasing number of prospective students who otherwise would have gone abroad for studies. Sincere efforts from all concerned and specially Foreign Education Providers shall

be the key point of achievement of objectives with which the proposed legislation is being sought to be implemented.

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

CLAUSE 2 : DEFINITIONS

7.1 **Clause 2 (C) of the Bill deals with Definitions.**

7.2 Clause 2(c) of the Bill defines the term ‘Commission’ as:-

“Commission” means the University Grants Commission established under the University Grants Commission Act, 1956 or any other body or council or commission established under any Central Act for the time being in force to regulate the entry and operation of foreign educational institution”.

As per the definition of the term ‘Commission’, UGC or any other body or council or commission will have the power to regulate the entry and operation of Foreign Educational Institutions.

7.3 The Committee was informed that the Ministry of Health and Family Welfare had approached the Department with the suggestion that the term ‘Commission’ instead of being uniformly defined in the Bill as the University Grants Commission, should also refer to statutory bodies like Medical Council of India, Indian Nursing Council etc. as and where required. Contention of the Ministry was based on the fact that in case of any conflict between the proposed legislation and existing laws related to medical education, the provisions presently contained in the MCI Act etc. should prevail. The Committee has been given to understand that the Department had clarified at that time that the present Bill was in addition to and not in derogation of other Indian laws and accordingly, the interest of medical education had been safeguarded. On being asked to specify the provisions of the Bill needing modification, the Ministry of Health and Family Welfare have suggested addition of a new clause, 2(c) be added giving a separate definition of the term ‘Commission’ in the context of medical education as indicated below:

‘Commission’ also means the Statutory Authority constituted by the concerned Ministry dealing with the Acts mentioned at section 2 (n) (iii) will prevail”.

7.4 The Committee felt that on the same analogy statutory bodies like AICTE, Council of Architecture, NCTE dealing with other streams of professional education should also be covered. On being asked to clarify the position, the Department informed the Committee that there was no question of any other agency acting as ‘Commission’ since the power to regulate the entry and operation of Foreign Educational Institutions was being conferred on UGC (or its successor body) alone. There was no need to include the statutory bodies like NCTE, MCI etc. since Acts governing them did not have provisions relating to Foreign Education Providers.

7.5 **The Committee is not convinced by the clarification given by the Department. As things stand today, UGC deals with universities established/incorporated by Central/State Acts etc. and all technical institutions are handled by AICTE and medical institutions by MCI and all other categories of institutions dealing with professional courses fall under the ambit of respective statutory bodies. If all the statutory bodies are to be brought under the proposed over-arching Commission, then there is every possibility of creation of two separate commissions for higher and medical education. The Committee is, accordingly, of the view that the definition of the term ‘Commission’ should be made more specific and include all those councils related to specific streams of education.**

Clause 2 (e)

7.6 Clause 2 (e) of the Bill defines the term 'foreign educational institution' as:-

- (i) an institution established or incorporated outside India which has been offering educational services for at least twenty years in the country in which it had been established or incorporated; and
- (ii) which offers educational services in India or proposes to offer courses leading to award of degree or diploma or certificate or any other award through conventional method including classroom teaching method not including distant mode in India independently or in collaboration, partnership or in a twinning arrangement with any educational institution situated in India.

7.7 Definition of the term 'foreign educational institution' was not found acceptable for different reasons by many stakeholders. It was pointed out that in India, only societies/trusts and other not-for-profit organizations were allowed to establish educational institutions. Neither the definition of the term 'Foreign Educational Institution' nor any other provision in the Bill provided for any such mandate. Another objection raised was about the criteria of twenty years being not substantiated by any basis or logic as it failed to stipulate any corresponding qualitative criteria for quantitative measure of twenty years. It was pointed out that on a qualitative basis, even a ten year old university/institute could offer equivalent standards of higher education as a twenty year old university/institute could offer.

7.8 On a specific query in this regard, the Department informed that only an institution which was in the field of education with considerable experience would be permitted to operate as Foreign Education Provider. Further, clause 4 stipulated the detailed procedure to be followed by a Foreign Educational Institution to be recognized as a Foreign Education Provider and provided that Registrar could make such inquiries in such manner as may be specified by regulations to ensure that Foreign Educational Institution was meeting the requirement to provide quality education in India.

7.9 A concern was also shown by some stakeholders that Foreign Educational Institutions should be allowed to operate only with the assistance and collaboration of any reputed and recognized group of institutions already operating in India. To this, the response of the Department was that the Bill provided for both types of operation, independent or in collaboration with the existing domestic institutions. Even if the Foreign Education Providers operated independently, they would be subject to regulatory control of UGC (or its successor body) and would have to abide by all the conditions imposed by the concerned regulatory authority regarding the quality and standards to be maintained.

7.10 The Committee finds substance in the arguments put forth by the stakeholders about eligibility conditions for Foreign Educational Institution being not adequate enough. The Committee is of the firm opinion that absence of any qualitative criteria is likely to create ample scope for entry of all kinds of Foreign Educational Institutions, irrespective of their standing in delivering quality education in their country of origin. This is all the more required when compared with the domestic institutions which are established by not-for-profit societies/trusts which have been registered in the country. The Committee would also like to point out that detailed procedure laid down in clause 4 to be followed by a Foreign Educational Institution to be notified as a Foreign Education Provider and the power given to Registrar to make inquiries through regulations will fail to ensure Foreign Educational Institutions meeting the requirement of providing quality education in India. Because this very provision lays down that the condition of accreditation from the accrediting agency of the home country would be applicable only if such a mechanism existed in that country.

7.11 **The Committee observes that the definition of the term ‘Foreign Educational Institution also covers those institutions offering certificate courses. Committee’s attention has also been drawn by clause 13, as per which such a Foreign Educational Institution need not be notified as Foreign Education Provider and can operate in India, only condition being submission of report to UGC as specified by regulations. The Committee, strongly feels that this may go against the interest of Indian students. The Committee, therefore, recommends that express provisions may be made in the Bill itself to cope up with such instances so as to protect the interest of the student community.**

Clause 2 (l)

7.12 Clause 2 (l) of the Bill defines the term “Registrar” as :-

“the Secretary of the University Grants Commission or any other officer of the Commission notified, by the Central Government, as Registrar for the purposes of this Act”.

The Department has informed that this provision has been incorporated only as a matter of abundant caution as the successor body to UGC, if any, may not have an officer designated as Secretary.

7.13 **The Committee is of the opinion that the definition of the term ‘Registrar’ needs modification as he will be the designated authority receiving the applications of Foreign Educational Institutions and forwarding the same to different statutory authorities like MCI, DCI, AICTE, Pharmacy Council etc. as a Foreign Educational Institution can be a university, a technical institution or even a medical institution. Presently, all these bodies are functioning as separate entities and it will only be after the legislation relating to the proposed over-arching Commissions – separately for higher education and medical education, is enacted and the two Commissions set up, that all the statutory regulatory bodies can be subsumed thereunder.**

Clause 2 (n)

7.14 Clause 2 (n) of the Bill defines the term ‘statutory authority’ as –

“(i) In relation to higher education or technical education or practice of any profession means an authority established or incorporated under a Central Act to regulate standards of such higher education or technical education or practice of any profession;

(ii) In relation to medical education means the statutory authority established under –

- (A) the Indian Medical Council Act, 1956; or
- (B) the Homoeopathy Central Council Act, 1973; or
- (C) the Indian Medicine Central Council Act, 1970; or
- (D) the Dentists Act, 1948; or
- (E) the Pharmacy Act, 1948; or
- (F) the Indian Nursing Council Act, 1947.

(iii) in relation to legal education means the Bar Council of India constituted under section 4 of the Advocates Act, 1961”.

7.15 The Department has informed the Committee that statutory authority for higher education and technical education would be an authority established or incorporated under a Central Act to

regulate standards of higher education and technical education. By implication, these statutory authorities will be the UGC and the AICTE for higher education and technical education respectively. Entries (i) to (iii) in sub-clause (n) of clause 2 distinguish and separately define regulatory authorities for higher and technical education, medical education and legal education for the sake of clarity. **The Committee is not satisfied with the reply of the Department. The Committee is of the view that there should be clear demarcations between technical and medical education as in the absence of such authority, it may cause more confusion later on. The Committee, therefore, is of the view that specific provision may be incorporated in the legislation itself by including MCI, DCI, AICTE etc. for medical and technical education and it should not be left as being implied as pointed out by the Department.**

Clause 2 (p)

7.16 Clause 2 (p) of the Bill defines the term ‘twinning programme’ as:-

“a programme whereby students enrolled with a foreign education provider complete their study partly in India and partly in any other educational institution situated outside India”.

7.17 Strong apprehensions were raised on the definition of the term ‘twinning programme’. It was pointed out that in accordance with this definition, Foreign Education Provider was not obliged to offer part of the programme in its country of origin. Using this provision, any predatory Foreign Education Provider might offer part of its programme in a country which allowed better ways of making profits.

7.18 On its attention being drawn to this anomaly, the Department clarified that it may be expected that the courses offered in other countries would be in the country of origin only. However, there may be a Foreign Education Provider which was having campuses in several countries and in such a case, the students of the institution would have the choice to opt for a country convenient for them. It was contended by the Department that the prospectus of Foreign Educational Institutions as envisaged in the Bill had to mention all the relevant details. However, if any more clarifications were considered necessary or extra conditions were required to be imposed, the same could be done through rules framed under the Bill or through regulations.

7.19 The Committee, while taking note of the concern expressed by many stakeholders does not approve of this kind of arrangement as it raises doubt about the status of Foreign Educational Institution which would decide as to where a part of the study has to be undertaken by the students. The Committee is of the view that the possibility of a Foreign Education Provider having campuses in several countries and students being forced to join any one of them but not one located in the home country does not seem to be very viable and will definitely not go in favour of students. The Committee would also like to point out that details to be given in the prospectus as envisaged in clause 6 do not include, any information relating to ‘twinning programme’. Further, inclusion of such information in the prospectus or in the rules/regulations will not in any way confirm the right of students to study in the country of origin. The Committee, therefore, recommends that in the definition of the term ‘twinning programme’, the words ‘partly in any other educational education situated outside India’ should be replaced by the words ‘its main campus in the country in which such institution is primarily established or incorporated’.

VIII Clause 4 : Foreign educational institutions to apply for being notified as foreign education providers :

8.1 This clause lays down the conditions and modalities for Foreign Educational Institutions to be notified as Foreign Education Providers. Any Foreign Educational Institution having twenty

years' experience which intends to impart education in India, shall submit to the Registrar an application, within a period of six months, duly endorsed by the concerned Embassy or High Commission in India of the country in which such institution is established or incorporated and has been offering educational services, for being recognized and notified as a Foreign Education Provider. This clause also provides for the manner in which an application shall be made and the other particulars, including payment of fee, as may be prescribed. The clause also states that a Foreign Education Provider has to maintain a corpus fund of not less than fifty crore rupees as notified from time to time by the Central Government in consultation with the statutory authority. The Central Government may, having regard to the report of the Commission, within a period of thirty days from the date of receipt of such report, recognize and notify such Foreign Educational Institution as a Foreign Education Provider for the purpose of award of degree or diploma or both in India.

8.2 Divergent views were expressed about the eligibility criteria, specially maintenance of a corpus fund of fifty crore rupees. One view put forth was that considering the profits involved in the business of education, a deposit of a sum of fifty crore rupees as corpus fund was a pittance. The other argument given was that a large majority of Foreign Educational Institutions in spite of being interested in investing in India, might be incapable of meeting this requirement. They should, therefore, be free to utilize the full amount of corpus fund to meet the start up cost. It was emphasized that lack of access to this fund might deter some of the institutions from entering the Indian education sector. Other aspect highlighted related to lack of clarity whether the corpus fund of fifty crore rupees was required for small scale educational ventures also. It was felt that there could be institutions which would run small scale collaborative programmes which in the longer run would lead to scaled up programmes. It was, accordingly, pointed out that in order to facilitate such foreign institutions that provide vocational and technological skills resulting in marketable certificates to enter the Indian market, alternative methods to establish legitimacy must be recognized, as such institutions would not be in a position to maintain the indicated corpus fund. It was also suggested by some that there should not be any need for maintaining a corpus fund of fifty crore rupees for Twinning Programme as the liability would then be of the Indian counterpart.

8.3 Response of the Department to these concerns about the corpus fund was that there was no proposal to fix differential structure of corpus fund which would remain the same for all Foreign Educational Institutions. However, this condition could be relaxed by the Government under clause 9 (1) in cases where the Advisory Board recommended and where the Government felt that exemptions shall be given to internationally reputed institutions for the furtherance of higher education and research. While prior accreditation is mandatory, wherever applicable to a Foreign Educational Institution to qualify as a Foreign Education Provider, it will be subject to national laws of the country which will also include compulsory accreditation, once the national accreditation authority will come into force.

8.4 The other issue raised related to eligibility condition of twenty years existence for Foreign Educational Institutions to be notified as Foreign Education Providers. By and large, twenty years of existence was not considered a justifiable qualitative criteria. It was felt that in the absence of any accreditation agency in the home country, this condition was likely to be diluted further. Contention of the Department was that twenty years' existence was sufficient for a Foreign Educational Institution to be ripe for establishing an institution in India. The Committee strongly feels that these concerns are very relevant and need to be looked into and acted upon.

8.5 The Committee is of the opinion that many areas have been left open in this Bill. The Committee feels that the condition of corpus fund of fifty crore rupees can be relaxed in the case of Twinning Programme and smaller Foreign Educational Institutions. However,

in the case of medical institutions, quantum of corpus fund needs to be enhanced. The Committee would also like to emphasize that there should be more stress on the quality and standards instead of the condition of twenty years of operation of the Foreign Educational Institutions in their home countries. The quality aspect can be easily taken care of by making prior accreditation mandatory. Further, Foreign Education Providers will be subjected to national laws, which will also include compulsory accreditation, once the National Accreditation Authority Bill was enacted. The Committee also takes note of the conditions laid down for Indian Institutions in whose case approval by statutory authorities is first given on provisional basis for a limited period of time, with further extension/permanent approval being subject to satisfaction of statutory authorities to be checked through regular/periodical inspection. The Committee is of the view that a viable mechanism on similar pattern for Foreign Educational Institutions also needs to be worked out.

Clause 5 : Quality of programmes offered in India, use of income from Corpus Fund, and investment of surplus in generated revenue

9.1 This clause provides for the quality of programmes offered in India, use of income from corpus fund, and investment of surplus in generated revenue. Under this clause, a Foreign Education Provider shall ensure that the course or programme of study offered and imparted by it in India is, in conformity with the standards laid down by the statutory authority, and is of quality comparable, as to the curriculum, methods of imparting education and the faculty employed or engaged to impart education, to those offered by it to students enrolled in its main campus in the country in which such institution is established or incorporated. It further provides that no part of the surplus in revenue generated in India by such Foreign Education Provider, after meeting all expenditure in regard to its operations in India, shall be invested for any purpose other than for the growth and development of the educational institutions established by it in India.

9.2 During the course of deliberations with various stakeholders, the Committee came across very strong reservations/apprehensions on the proposed conditions prescribed for a Foreign Education Provider to operate in India. The first and foremost concern related to kind of courses or programmes of study which could be provided by a Foreign Education Provider. It was pointed out that the Bill did not explicitly prevent any specific subject or course from being taught. Subjects and courses on religious studies, Indian history, politics without an understanding of Indian sensitivities might prove harmful. It was felt that taking up of a course or programme which did not take note of cultural and linguistic sensibilities of Indian population might also adversely affect the sovereignty and integrity of the country.

9.3 On this issue being taken up with the Department, it was clarified that clause 5 (1) stipulated that courses, programmes and the curricula adopted by a Foreign Education Provider should be in accordance with the laid down norms and hence the question of going out of the curricula to impart religious education did not arise. Further, regulatory powers accorded to the UGC under the Bill would ensure that aberrations, if any, were set right in time.

9.4 The Committee does not find the clarification of the Department very convincing. It must be kept in mind that identical norms and conditions cannot be made applicable on Foreign Educational Institutions and Indian Institutions. Significant differences are bound to be there if we look at the home country of Foreign Educational Institutions and cultural and social background of our country. The Committee also feels that there is a need for having an abundant precaution in this sensitive area. Committee's attention has been drawn towards the 2007 version of the draft Bill which had the following specific provision:

“A Foreign Education Provider shall ensure that it takes into account the cultural and linguistic sensibilities of the people of Indian and shall not offer a course of study which has a context adversely affecting the sovereignty and integrity of India”.

The Committee is of the view that inclusion of such a provision will take care of any eventuality arising after the enactment of the Bill. The Committee, accordingly, recommends inclusion of the above provision as a proviso to clause 5(1).

9.5 Committee’s attention was also drawn to the chances of Foreign Educational Institutions being interested in research, innovation and consultancy in the short term and patents and endowments in the longer term. It may happen that a corporation in USA may engage Ivy League University in USA for a research programme. With its campus in India, it can take the job in USA and get the work done in India with the innovation ultimately belonging to USA and not to India. When the attention of the Department was drawn to this eventuality, it was clarified that the very purpose of giving national treatment to Foreign Education Provider was to prevent such cases from taking place. Once established and notified, a Foreign Education Provider would be subject to all national laws, including laws on patents and other IP Laws. If an innovation was done in India, the same had to be registered and patented in India only.

9.6 **While the Committee finds merit in the contention of the Department, it would like to point out that applicability of all Indian Laws to Foreign Education Providers alone will not serve the purpose. A mechanism for monitoring of Foreign Education Providers and required follow-up action will also have to be in place simultaneously.**

9.7 Another area of concern brought to the notice of the Committee was that under clause 5(1), a Foreign Education Provider ranked low in its country of origin, would neither be under any obligation to raise quality/standard of courses being offered nor quality of faculty in its institution being set up in India. It was, accordingly, emphasized that the standard of education provided by Foreign Education Providers, must be effectively verified and certified prior to their establishment. **The Committee observes that as provided in clause 4(5), the Registrar has been entrusted with the responsibility of making inquiries so as to ensure that the Foreign Educational Institutions meets the requirements to provide quality education in India. For this purpose, regulations are to be formulated by the UGC under clause 15(2)(a). The Committee is of the view that some mechanism of pre-check should be included in these regulations as incorporated in the AICTE Regulations for Entry and Operation of Foreign Universities/ Institutions imparting Technical Education in India, 2005.**

9.8 Divergent views were expressed about the maintenance of corpus fund by the foreign education provider. One view was that since that initial funding was coming from Foreign Educational Provider, some way of repatriation of investment made in land and infrastructure for the institutions should be made. It was also pointed out that in order for the Foreign Educational Institutions established in India to have the same standards as those of the home based institutions, any surplus in revenue should contribute to the institution as a whole. In contrast, it was contended that Foreign Education Providers would find ways to put the surplus in profit-making ventures including real-estate business. It was also emphasized that given the need for not-for-profit nature of Foreign Educational Institutions and the need to invest their surplus back in India, the Bill did not provide any scope for reputed institutions to take the time and effort to open such campuses in India. **It was, accordingly, suggested that Government should consider a fixed percentage of surplus to be carried out of India by Foreign Educational Institutions so as to prevent any potential misuse of any provision of Indian laws.**

9.9 **The Committee takes note of the justification given by the Department that diversion of resources from the institution is prohibited so as to ensure that mere profit**

should not be the consideration for establishing an institution. The surpluses generated have to be utilized for the growth and development of the institution only so as to prevent commercialization.

9.10 The Committee is of the opinion that this clause may prove a deterrent to the prospective Foreign Educational Institutions/Foreign Education Providers entering the country. It is a kind of one way traffic with no going back and large and reputed education providers may feel hesitant in opening their campus in India. The Government may consider some other arrangement so that the interests of both the country and that of the Foreign Educational Institutions/Foreign Education Providers are well served and protected. Government can devise some incentives to those Foreign Educational Institutions which would utilize their surplus in India itself. The Government has to be very cautious regarding the standard of education being provided by the Foreign Educational Institutions. It has to progressively achieve in a time-bound manner as approved by the designated regulator. The Government may devise a mechanism that the institutions which are accredited in their own country should be cross checked here also so as to ensure the maintenance of required standard of education. It is not only the standard of education that the Government has to be aware of, but also the kind of education being provided by the Foreign Educational Institutions and has to ensure that those education providers should not indulge in providing religious or fundamentalist education which may be a threat to the integrity and the sovereignty of the country.

X. Clause 6: Mandatory publication of prospectus, its contents and its pricing

10.1 Clause 6 deals with mandatory publication of prospectus, its contents and its pricing. It provides that every institution shall publish and put the same on its website, before expiry of sixty days prior to the date of the commencement of admission to any of its courses or programmes of study, a prospectus containing the details specified in items (i) to (xii) in the clause for the purposes of informing those persons intending to seek admission and the general public. The details to be specified in the prospectus are as follows:-

- each component of the fee, deposits and other charges payable by the students;
- percentage of tuition fee and other charges refundable to a student in case he withdraws from the institution;
- number of seats approved by the statutory authority in respect of each course or programme of study;
- conditions of eligibility including the minimum and maximum age limit of persons for admission as a student;
- educational qualifications specified by the relevant statutory authority or by the institution where no such qualifying standards have been specified by any statutory authority;
- process of admission and selection of eligible candidates applying for such admission and the amount of fee to be paid for the admission test including all relevant information with regard to test or examination for selection of such candidates;
- details of the teaching faculty, including therein the educational qualifications and teaching experience;
- minimum pay and other emoluments payable for each category of teachers and other employees;

- information in regard to physical and academic infrastructure and other facilities including hostel accommodation, library and hospital or industry;
- broad outlines of the syllabus specified by the statutory authority or by the institution;
- all relevant instructions in regard to maintaining the discipline by students within or outside the campus of the institution, and, in particular such discipline relating to the prohibition of ragging etc;

Clause 6 further provides that every institution shall fix the price of each printed copy of the prospectus being not more than the reasonable cost of its publication and distribution and no profit be made out of the publication, distribution or sale of prospectus.

10.2 During the deliberations with various stakeholders, concerns were expressed about the different details to be mandatorily published in the prospectus by every Foreign Education Provider. Fee and other charges details elicited the maximum apprehensions due to the following anticipated eventualities:-

- there is no guarantee about commercialization being curbed as the Foreign Education Providers would be free to charge any fee and other charges, the only condition being declaration thereof in the prospectus/website.
- lack of clarity on fee structure would have ominous impact on the ability of middle/lower middle class in having the benefits of such institutions.
- In the context of experience due to the unregulated fee structure in the private institutions, the gap between the access of the rich and the poor to quality education would further increase.

10.3 It was, accordingly, suggested that Foreign Education Providers should be allowed to charge fees, subject to the Fee Committee norms as applicable to Indian institutions. It was also emphasized that Foreign Education Providers should not be given the absolute right to decide the fee structure. A mechanism should be set up by Government to monitor and regulate their fee structure. Response of the Department on this issue was that Foreign Education Providers situated in States having Fee Fixation Committees would have to abide by the ceiling imposed by such Committees on the maximum fees to be charged by them. Foreign Education Providers being subject to the Indian laws, provision of fee regulation prevailing in the country would have to be followed by them.

10.4 Another major area of concern was Foreign Education Provider being free to have its own norms regarding qualification of teachers, their salary structure. It was also suggested that Foreign Education Providers should have at least 40 per cent of Indians including NRIs as their faculty. On a specific query in this regard, the Committee was informed that Foreign Education Providers should be given sufficient autonomy for faculty engagement and, accordingly, be allowed to engage Indian faculty as well as faculty from abroad including NRIs.

10.5 It was also pointed out that Common Entrance Test and merit among the candidates should be the primary basis for admission to all the courses in a Foreign Educational Institution. However, it was clarified that even domestic universities were free to follow their own process for admission. It was, therefore, for them to conduct their own admission tests or participate in any admission test.

10.6 Another suggestion which was put forth before the Committee was that there should be a ceiling on the number/percentage of foreign students who could be allowed to enroll in these Institutions. Clarification given by the Department in this regard was that Foreign Education

Providers would be free to enroll foreign students subject to relevant details given in the prospectus. Secondly, presence of foreign students in classrooms would provide an international experience of different cultures to Indian students.

10.7 Another aspect which had drawn the attention of the Committee is that while some of the details to be included in the prospectus had to be as per the prescribed/ statutory norms, no such binding was there in the case of fee/deposits/other charges, percentage of tuition fee and other charges refundable to students, admission and selection process, details of teaching faculty. As a result, chances were there that inspite of such details not being as per the prescribed norms, the same could become fully approved/authorized on their inclusion in the prospectus.

10.8 The Committee fails to comprehend the omission of reference of statutory authority/ prescribed norms with regard to fee details, refunding thereof, admission/selection process of students and details of teaching faculty when such a reference is there with regard to number of seats, eligibility criteria, educational qualifications and syllabus details. The Committee is of the firm view that any ambiguity in this regard would go against the interests of students as well as teachers.

10.9 **The Committee takes note of the fact that India's offer under GATTs provides that there would be no limitation on market access for Foreign Educational Institutions subject to the condition that fees to be charged can be fixed by an appropriate authority and no capitation fee or profiteering and, subject to regulations in place or to be prescribed by appellat regulatory authority. The said offer is being fully reflected in the present proposal.**

10.10 **The Committee shares to an extent the apprehension of the various stakeholders regarding autonomy to be given to Foreign Educational Institutions/Foreign Education Providers. The Committee, however, also agrees to the view of the Government that the autonomy given to the domestic universities in their operations and functioning may be extended and the same kind of treatment should be given to the Foreign Educational Institutions so as to provide a level playing field. The Committee also understands that the Foreign Educational Institutions in their structure are different from the domestic universities. They would have different mindset and one cannot deny that the element of profiteering may also be there. The Department has to be vigilant in this regard and devise some mechanism by which Foreign Educational Institutions are not given absolute freedom in fixing of fees, admission criteria, hiring of faculty etc. keeping in mind the social fabric in the country. The Committee is, therefore, of the opinion that till any mechanism regulating the fee structure is evolved, the minimum requirement of basis/norms/criteria about the quantum of fees to be charged has to be mandatorily mentioned in the relevant clause. The Committee would also like to point out that the term 'other charges' also needs to be made specific by indicating the various components coming under its ambit. Similarly, the percentage of fees to be refunded should not be left at the discretion of institutions. A reference to the same can be easily incorporated.**

10.11 Another important issue highlighted in this clause was the need for having qualified faculty as per the prescribed norms. There may be instances where less qualified faculty and even fresh pass outs are engaged by the institutions for teaching. As per this provision, the institution would have to give details of the teaching faculty, their educational qualification, teaching experience and minimum pay and other emoluments payable for each category of teachers and other employees. However, mere publication in the prospectus by an institution about its faculty which may not be qualified as per norms or even absence of adequate number of faculty can make it justified since the institution has disclosed the information in its prospectus. **The Committee, accordingly, recommends that reference about prescribed norms/statutory obligations should be there in respect of faculty details also. Secondly, it may happen that a faculty member may leave**

the institution or a new faculty member may join the institution mid-session. The Committee is of the view that institutions should have the option to make necessary changes in the website in the event of the faculty members leaving or joining.

XI. Clause 7 : Withdrawal and rescission of notification of Foreign Education Provider

11.1 Clause 7 provides for the withdrawal and rescission of notification of Foreign Education Provider. This clause empowers the Central Government for withdrawal or recognition and rescission of the notification issued, if the Foreign Education Provider has violated the provisions of this Act or the UGC Act, 1916 or any other law in force including laws, regulations or orders. Under this clause, if the Central Government is satisfied that the recognition of the Foreign Education Provider is to be withdrawn and such notification issued in respect of such Foreign Education Provider to be rescinded, it shall require the Commission to intimate – (i) the management; (ii) the teachers; and (iii) the student council or any other body by whatever name called, and the parents, by a notice, in such manner as may be prescribed, of the grounds for withdrawal of recognition and rescission of the notification issued under sub-section (8) of section 4 in respect of such Foreign Education Provider. The management or teachers or students council or parents may within a period of thirty days represent to the Central Government against the proposed rescission of the notification. The Central Government after considering the representation, may withdraw the recognition and rescind the notification. On withdrawal of the recognition and rescission of the notification issued in respect of the Foreign Education Provider, the Foreign Educational Institution shall cease to be a Foreign Education Provider on and from the last date of the academic session following the previous academic session in which the notice was issued by the Commission. On withdrawal of recognition and rescission of the notification issued in respect of the Foreign Education Provider, the Central Government shall, as soon as may be, take such measures as may be necessary to provide alternative and appropriate educational facilities for those students who were enrolled by such Foreign Education Provider. Also, the Central Government may, in accordance with the relevant law for the time being in force, attach the corpus fund and such other properties of the Foreign Education Provider, as it may deem fit to make payments to any person employed in India by it, and for making arrangements of appropriate educational facilities for students.

11.2 The Committee observes that under this provision, the Commission can recommend to the Central Government for withdrawal of recognition and rescission of the notification after giving a reasonable opportunity of being heard to the Foreign Education Provider. Similar provision exists in respect of Indian Institutions in the relevant laws. However, this provision also gives another opportunity to the management/teachers/student council/parents to represent to the Central Government against the proposed recession within thirty days. It is only after consideration of such representation, the Central Government may withdraw the recognition and rescind the notification.

11.3 On being asked about the reason for having this additional provision, the Department clarified that this was only to accord an opportunity to all stakeholders to express their views on the proposed withdrawal. It did not mean that merely on the representation of the parents and teachers, the decision could be reversed. Natural justice demanded that an opportunity should be given to affected parties also. In case of any new light being thrown on the facts of the case which might need closer examination, the Government would have the liberty to examine the same and issue the requisite orders.

11.4 The Committee is not fully convinced by the argument put forth by the Department for having such a provision. The Committee is well aware of the fact that the decision to de-recognise and de-notify the institution rests with the Government and not the UGC

which is only a recommendatory body in such cases. The Committee would, however, like to point out that UGC, a statutory body is the regulatory body for higher educational institutions in the country whose recommendation will be forthcoming only after giving a reasonable opportunity of being heard to the Foreign Education Provider. Interest of students as well as teachers are fully addressed in sub-clauses (6) and (7). Secondly, recommendation of the UGC to the Central Government would be based on a detailed exercise which would also involve interaction with the management and other responsible/designated authorities, besides inspection of relevant records and infrastructure etc. Management being given another opportunity and decision of the Central Government to withdraw recognition or otherwise being based on any new facts being brought to the notice of the Central Government by any of the affected parties in a way negates the expert advice tendered by a statutory body. The Committee would also like to draw the attention to the AICTE Regulations for Entry and Operation of Foreign Universities/Institutions imparting Technical Education in India, 2005, whereunder AICTE after giving reasonable opportunity to the concerned institution through hearing or making inquiry is fully empowered to withdraw the registration granted to such institution.

11.5 In the light of the above, the Committee recommends that a provision whereby the teachers, student council and parents can approach the UGC when the exercise of examining any violation of concerned laws/rules/regulations/orders by the Foreign Education Producer is going on. The other option could be that UGC is also involved/consulted in the event of any new facts being brought to the notice of Central Government by the management, teachers, student council, parents.

XII Clause 8 : Penalties

12.1 Clause 8 dealing with penalties reads as follows:-

- (1) Notwithstanding anything contained in the University Grants Commission Act, 1956, any person who, being associated with an educational institution or a foreign educational institution not being a foreign education provider which has not been recognized and notified under sub-section (8) of section 4 or whose recognition and notification has been withdrawn:-
 - (a) offers or gives admission to any person as student or collects fee or awards any degree, diploma or any other equivalent qualification in violation of the provisions of section 3; or
 - (b) publishes or releases any advertisement which is misleading or gives wrongful information in the print, electronic or any other media or fails to publish disclosures as required under section 13, shall be liable to a penalty which shall not be less than ten lakh rupees but which may extend to fifty lakh rupees in addition to refund of the fee, so collected, to the persons from whom it was collected and confiscation of any gains made out of it.
- (2) Any foreign education provider, which has been recognized and notified under sub-section (8) of section 4, who contravenes any provision of section 5 or section 6 or any provision of the University Grants Commission Act, 1956, shall be liable to a penalty which shall not be less than ten lakh rupees but which may extend to fifty lakh rupees and the forfeiture of the corpus fund referred to in clause (b) of sub-section (4) of section 4 in whole or part thereof.
- (3) All sums realized by way of penalties or the gains confiscated under this Chapter or the amount of corpus fund forfeited shall be credited to the Consolidated Fund of India.

12.2 This clause prescribes a penalty of not less than ten lakh rupees which may extend to fifty lakh rupees on any person associated with an educational institution or a Foreign Educational Institution not being a Foreign Education Provider or whose recognition and notification has been withdrawn on:-

- offering/giving admission/collecting fee/awarding any degree/diploma or
- publishing/releasing any misleading advertisement/giving wrongful information in media/failing to publish disclosure regarding conducting certificate courses.

Any Foreign Education Provider, duly recognized and notified, contravening provisions of clause 5 relating to quality of programmes, use of income from the Corpus Fund and investment of surplus in generated revenue or clause 6 relating to mandatory publication of prospectus or any provision of the UGC Act, 1956 is liable to be imposed same penalty and in addition, forfeiture of the corpus fund.

12.3 The Committee observes that same penalty has been prescribed on three different categories of entities i.e. a person associated with a Foreign Educational Institution not being a Foreign Education Provider, a Foreign Education Provider whose recognition has been withdrawn and a Foreign Education Provider, duly recognized and notified as such. What is more surprising is that different types of contraventions will attract same penalty, the only exception being forfeiture of the corpus fund of Foreign Education Provider.

12.4 The Committee has been given to understand that Foreign Education Providers once notified will be accorded national treatment in the application of all laws as they are applicable to private educational institutions in the country. It was categorically stated that a non-discriminatory approach has been envisaged in the proposed legislation. Committee's attention was also drawn to clause 12 of the Bill, as per which provisions of this Act would be in addition to, and not in derogation of, the provisions of any other law for the time being in force. When asked to clarify the position about applicability of the Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010, it was categorically stated that provisions of this Act would also apply to recognized Foreign Education Providers. However, as per the prevailing jurisprudence, Foreign Education Provider cannot be penalized under both the laws for the same offence.

12.5 Penalty provision of the proposed legislation when compared with that of the Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010 reveals that there is no mention of minimum penalties in that Bill. Besides that, some additional penalties like penalty for refusal to return or withholding documents and penalty for which no specific provision is there are also included in that Bill.

12.6 The Committee is of the firm opinion that in line with the applicability of national laws on Foreign Educational Institutions/Foreign Education Providers, there should be no element of discrimination so far as imposition of penalty is concerned. This fact has been agreed to by the Government also.

12.7 The Committee finds it rather intriguing that while any person associated with a Foreign Educational Institution not being a Foreign Education Provider or whose recognition has been withdrawn is liable to be penalized for publishing/releasing misleading/wrongful advertisement, no such penalty is envisaged for a recognized Foreign Education Provider indulging in such an activity.

12.8 The Committee would like to emphasize that there should be no discriminatory approach in the handling of both Indian and Foreign Institutions. They need to be treated at par specially in the event of their contravening provisions of their nodal Acts as well as

other relevant laws of the land which are supposed to be made applicable to them. The Committee would appreciate if provisions relating to penalties in both these legislations are reviewed and made uniformly applicable.

XIII. Clause 9 : Power of Central Government to exempt:-

13.1 Clause 9 pertaining to power of Central Government to exempt reads as follows:-

- (1) Notwithstanding anything contained in this Act, the Central Government may, by notification, on the recommendation of the Advisory Board constituted under sub-section (2), having regard to the reputation and international standing of foreign educational institution and such other criteria as may be prescribed, exempt such institution from operation of any of the foregoing provisions, other than sub-section (3) of section 5 and section 8.
- (2) For the purpose of sub-section (1), the Central Government shall, by notification, constitute an Advisory Board consisting of-
 - (a) three distinguished persons from the field of academics, who are, or may have been at any time, declared as a national research professor, one of whom shall be designated as the Chairperson of the Advisory Board;
 - (b) Chairman of the Commission, *ex officio*;
 - (c) Chairman of one of the statutory authorities, other than the Commission, by rotation.
- (3) The Advisory Board shall meet at such times and places, and observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meeting) as may be prescribed.

13.2 It was clarified by the Department that the exemption under this clause can be granted to a Foreign Educational Institution of international standing and repute from all the other conditions except the following two conditions:-

- the surplus cannot be utilized by such an institution other than for the purposes of growth and development of the institution [clause 5(3)]
- the institution cannot give admission/offer to give admission or award any degree/diploma etc. until and unless it is notified as a Foreign Education Provider under Section 3 [clause 8(1)(a)]. It cannot issue any misleading advertisement or give wrong or misleading information or fail to publish prospectus as required under section 13 [clause 8(1)(b)]

13.3 In other words, the Central Government, at its discretion can grant exemption to the selected Foreign Education Providers from the following conditions:-

- Maintaining a corpus fund of fifty crore rupees under clause 4(3) (b)
- Applying for recognition and notification under clause 4
- Publishing of prospectus under clause 6
- Utilizing 75 per cent of the income from corpus fund for development of the institution and depositing the balance back in the corpus fund under clause 5 (2).

The Committee was also given to understand that Foreign Education Providers shall be accorded national treatment and will be subject to all Indian laws relevant to institutions as provided in

clause 12. The conditions and restrictions as applicable to Indian Education Providers shall be applicable to Foreign Education Providers also.

13.4 Very strong reservations were expressed on the exemption clause by majority of the stakeholders as indicated below:-

- it would serve certain vested interests to bring selected foreign institutions in India.
- parameters of exemption for notifying a Foreign Educational Institution as an institution of 'reputation and international standing' must be specified in the proposed law itself.
- Foreign Education Provider on exemption will not be required to follow the standards laid down by the statutory authority for curriculum, faculty, methods of imparting education. However, Indian institutions will be bound by the norms laid down by statutory authorities. An exempted Foreign Education Provider will thus have an advantage over Indian institutions.
- it would be an up-hill task to enforce the penal provisions of section 8 on the exempted Foreign Educational Institutions.
- criteria for exemption are vaguely defined and depend on subjective factors like 'reputation' and 'international standing'. This will result in each Foreign Education Provider bargaining hard with the Government to get more and more exemptions and also encourage malpractices.
- it will be much more beneficial if the best of foreign universities among the top five in their respective countries are allowed to enter.

13.5 On attention of the Department being drawn to the issues mentioned above, following clarifications were given:-

- reputation and international standing of higher education are built over several decades and refer to the global perception and evidence of high quality by excellence in teaching, learning and research publication. These matters of detail are proposed to be prescribed under the Rules.
- offering specific exemptions from the operation of certain provisions will ensure that selected reputed foreign universities will come at mutually acceptable terms.
- this clause does not operate in its entirety since the exemptions will be granted only on certain provisions of the clauses preceding clause 9 (1), at the discretion of the Government and subject to the recommendations of the Advisory Board.
- the Advisory Board would consist of three distinguished academics who may/may have been at any time National Research Professions. Their stature is such that they are neither amenable to any pressure from any quarter nor can be influenced by Government. They have been included so as to restrict the discretion of the Government in nominating persons to the Board. Other two members also are eminent persons holding statutory positions and cannot be said to be fully under Government control.
- such a distinguished Advisory Board would make recommendations with due diligence and care.
- the delegation of exemption powers to Central Government is subject to Parliamentary Oversight under clause 16.

13.6 The Committee, after analysing the arguments put forth by the Department for having an exemption clause is of the view that concerns raised by the stakeholders cannot be totally ignored. Exemption proposed to be given are major ones. Not maintaining corpus fund of fifty crore rupees and as a result, no compulsion to utilize 75 per cent of the income from corpus fund for development of the institution and depositing the balance back in the corpus fund being there gives rise to viability of even reputed institutions in operating in a foreign country. Not only this, applicability of clause 8 relating to penalties on such reputed institutions will also be not there fully. The Committee would like to point out that such institutions will be exempted from clause 3 relating to prohibition on admission, collection of fees etc. by a Foreign Educational Institution unless being notified as an Foreign Education Provider under clause 4(8). As a result, penalty (Rs.10 lakh to Rs.50 lakh) for violating clause 8 (1) (a), *i.e.* offering or giving admission to any person or collecting fee or awarding any degree, diploma cannot be imposed on them.

13.7 The Committee also takes strong objection to exemption of reputed institutions from clause 6 relating to mandatory publication of prospectus. In the absence of such a vital piece of information enumerating all kinds of details about the institutions, it would be a difficult task for prospective students to have an actual idea about the availability of education facilities. Protection of interests of students in every respect has to be the top priority for all concerned. The Committee fails to comprehend the rationale for exempting reputed institutions from adhering to this very basic requirement. Rather availability of relevant details about an institution is bound to give publicity about its standing.

13.8 The Committee also takes note of the fact that internationally also, such an exemption power does not exist in any other country. Details made available to the Committee clearly indicate that practice of invitation is prevalent in quite a few countries. The Committee has been given to understand that practice of entry by invitation will be difficult to implement in Indian situation. The Committee is of the view that exemption from crucial conditions will also be discriminatory if viewed in the context of premier Indian Institutions. The Committee, therefore, recommends that clause 9 deleted.

XIV. Clause 13 : Foreign Educational Institution conducting certificate courses to report its activities to Commission

14.1 Clause 13 which provides for Foreign Educational Institutions conducting certificate courses to report their activities to the Commission reads as follows:-

- (1) Notwithstanding anything contained in this Act, a foreign educational institution (not being a foreign education provider notified under section 4), which is imparting education leading to award of certificate or any other qualification not being a degree or diploma or equivalent qualifications, shall furnish a report to the Commission about its activities, in such manner as may be specified by regulations.
- (2) The Foreign educational institution referred to in sub-section (1), shall publish information on its website and draw the attention of prospective students and the general public to such publication on the website through advertisements displayed prominently in the different newspapers and through other media, indicating, *inter alia*, the following, namely:-
 - (a) the details of course or programme of study leading to the award of certificate;
 - (b) the details of enrolment of students;
 - (c) the details of infrastructure available with it;

- (d) details of the place wherefrom such institution is operating in India;
- (e) whether operating on its own or through collaboration or partnership or twinning arrangement with any Indian educational institution and the details thereof;
- (f) such other information as may be considered necessary by the Commission.

14.2 This clause lays down that a Foreign Educational Institution not being a Foreign Education Provider imparting education leading to award of certificate or any other qualification not being degree or diploma or equivalent qualification will have to report to the Commission and give publicity about all details of its activities.

14.3 When asked to clarify the basis for having such a provision, the Committee was given an idea about the ground realities necessitating inclusion of clause 13. It was informed that many Foreign Educational Institutions operating in the country were offering courses leading to award of certificate or diploma or other awards not recognized in India. These may be market oriented, short duration certificate courses, vocational courses and courses in soft skills/language teaching etc. which were outside the purview of this proposal. As such diplomas/certificates were not recognized under section 22 of UGC Act, it was felt that there was a need to maintain information about such courses and institutions so as to keep an eye on false and misleading advertisements or their clandestinely offering degree programmes without registration as Foreign Education Providers. In the absence of any mechanism to enforce reporting of information by such institutions or in respect of such courses, this clause had been felt necessary. Foreign Educational Institutions would be reporting about their activities, to the Commission in such manner as may be specified by regulations which would be empowered to periodically examine overall functioning of Foreign Educational Institutions.

14.4 Various stakeholders were of the opinion that Foreign Educational Institutions can under this clause continue doing their business, making profits and repatriating them. No provision of this Act shall apply to them. Since most of the Foreign Educational Institutions are likely to come in the professional education sector such as hospitality, tourism, management etc., it is likely that students will flock towards them, even if they cannot award degree/diploma. There may be a rise of such institutions and bringing them fully under the ambit of the provisions of this Act which are applicable to the Foreign Education Providers will serve the purpose.

14.5 The Committee fails to comprehend the genesis of having such a provision. Foreign Educational Institutions imparting education leading to award of certificate or any other qualification not being degree or diploma or equivalent qualifications being allowed to continue to operate in India, the only conditions being their giving publicity about courses being offered by them and furnishing a report to UGC cannot be considered a viable option in any respect.

14.6 The Committee would like to point out that no doubt, inclusion of such a clause will facilitate the entry of more and more institutions which will give short duration vocational courses leading to immediate placements and thus becoming more popular among a particular strata of the society. However, there is every likelihood that such institutions may grow into an unmanageable proportion due to the lack of proper legislation. It may worsen the situation which the country is facing presently. The Committee is of the view that in the absence of any penalty provision proposed in the Bill for such Foreign Educational Institutions, mere furnishing of reports to UGC would remain an exercise on paper only. The Committee is compelled to draw attention to AICTE Regulations 2005 which have proved to be ineffective in curbing the activities of Foreign Educational Institutions in spite of having sufficient checks. One must also not forget that the main objective of the proposed legislation to protect the Indian students from the various malpractices resorted

to by a number of Foreign Educational Institutions operating in the country would perhaps remain partially achieved. The Department needs to look into this aspect thoroughly and put in place certain mechanism that will regulate the operations of such Foreign Educational Institutions.

14.7 The Committee observes that definition of the term ‘foreign educational institution’ covers those institutions also which offer certificate courses and which can very well apply for being recognized as a Foreign Education Provider under clause 4 and thus covered under other relevant clauses. In such a situation, another exclusive clause for Foreign Educational Institutions offering certificate courses to report only to UGC and publicise their activities cannot be considered a prudent policy decision. The Committee, accordingly, recommends deletion of clause 13.

**XV. Clause 14 : Power to make rules
Clause 15 : Power to make regulations**

15.1 The clause 14 and 15 gives power to the Central Government to make rules and regulations for carrying out the provisions of this Act. On a specific query about the need for any time frame for making of rules/regulations, it was clarified by the Department that in order to operationalise the legislation, the rules will be framed by the Government as soon as possible and in any case well before the following academic sessions, after coming into force of the law. The regulations will be issued by the Commission as and when required from time to time.

15.2 **The Committee understands that it is an important aspect of any legislation. Any delay in framing of rules or regulations will defeat the very purpose of this legislation. Delay in making of rules will further delay the proper enforcement of this legislation. The Committee expects that priority will be given to framing of required rules/regulations once the Bill is enacted.**

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

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

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

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

NOTES OF DISSENT

NOTES OF DISSENT

PRASANTA KUMAR MAJUMDAR
Member of Parliament
(Lok Sabha)

1. The Bill aims at controlling the foreign institutions. But this Bill there is no assurance of genuine student friendly spread on education.
2. There is no provision of control over the fees structure of the foreign firms.
3. There is only mention of fees collected in which category.
4. As if they may collect fees according to their will only informing the Government.
5. The excess income will be utilized for the development of the institution. But the excess income is nothing but net profit. The profit may be used for their own benefit.
6. In this regard it may be kept in mind that 20 years experience is alone not enough. Quality and standard of education is a major yardstick. It should be 35 years.
Absence of any qualitative criteria ample scope for entry of all kinds of institute and universities irrespective their standing in delivering quality education in their country.
7. It is remarkable that the foreign institutions are not in a position to judge tradition of Indian long cultural heritage. This is essential for the true spirit of education. The indigenous faculty of Indian scholar cannot be anticipated by the foreign institution.
8. This Bill does not mention regarding research oriented activities. It is true foreign education is essential to improve our educational quality and standard. Knowledge does not know any national boundary. A great number of talented students go abroad for acquiring education. If foreign institutions set up their campus in India. The problem will not be solved. Many foreign institutions with not much reputation set up their campuses here only to make profit.
9. In this regard my view is that Government should try to set up more new campuses. In this matter expertise from the foreign universities may be exchanged. It may develop the quality and standard of education.
10. Reservation policy for SC/ST/OBC is our constitutional priority. It is essential for the upliftment of the deprived section. But in case of foreign institutions it is overlooked.
11. Lastly the object of this Bill is to commercialization in the field of education. So I oppose the Bill.
12. In a country like India we have a educational heritage. So India does not mean XYZ educational institution. We really need to invite educational institutions like Oxford, Cambridge, Harvard, Mit etc. These institutions have excelled in their field. If these universities open campuses in India it would be a value addition.
13. Then one more very important issue is the admission process in these universities who will regulate, whether reservation will be allowed. These are not clearly mentioned in this Bill.
14. Clause 9 of the Bill should be omitted. I want to vote against 9 clause.

PRASANTA KUMAR MAJUMDAR
Division No. 362

P.K. BIJU
Member of Parliament
(Lok Sabha)

The Foreign Educational Institutions (Regulation of Entry and Operations Bill, 2010 introduced in the Lok Sabha is going to be a big blow to Indian higher educational system. I have been opposing the Bill since the first meeting of the Committee on FEI on the ground that it is a clear strategy to thwart our public education. It is going to be implemented by undemocratic and autocratic way since it has neither been subjected to proper consultation with the State governments nor put in public domain. The Bill cannot give an answer to the critical questions, such as social justice, commodification of education, unethical practices in higher education and research etc. The Bill echoes the neo liberal agenda of the global corporates who viewed “education as a commodity” that can be marketed in the global market. It will lead to draining of our knowledge by the unscrupulous private players. Further, there is any single clause in the bill to protect our own institutions. I have also submitted a detailed dissent note on 28th June, 2011 in this regard before the committee. This bill denies access to the poor to education and further widening the divide between the rich and poor.

Against the backdrop, I strongly express my dissent to the present Bill and request you to include it in the draft.

P. K. BIJU

RECOMMENDATIONS/OBSERVATIONS OF THE COMMITTEE — AT A GLANCE

I. INTRODUCTION

The Committee takes note of the AIU Study which shows an increase in the number of Foreign Education Providers from 144 in 2000 to 631 in 2010. Findings of this study reveal very disturbing trends. Out of the 440 Foreign Universities/Institutions reported to be operating from their home campuses, maximum number (158) were from United Kingdom, followed by 80 from Canada, 44 from USA, 43 from Australia, 32 from New Zealand and remaining from countries like China, Holland, Ireland, Japan, Lithuania, Grenada, Armenia, Czech Republic, Dubai, France, Germany, Switzerland, Thailand, Mauritius, Nepal, Russia, Scotland, South Korea, Sweden, Singapore, Malaysia and Ukraine. As many as 277 such Foreign Universities/Institutions did not indicate any website address in their advertisements. Out of the 60 Foreign Education Providers having programmatic collaboration with local institutions, only 25 local institutions were affiliated to Indian Universities/approved by regulatory bodies. Similarly, out of 49 Foreign Education Providers operating under twinning arrangements, only 32 were with Indian Institutions having required approval/affiliation. Lastly, only 25 out of 77 Foreign Education Providers were having arrangements other than twinning or programmatic collaboration with duly approved/affiliated Indian Institutions. What is more disturbing is that AICTE Regulations for Entry and Operation of Foreign Universities/Institutions Imparting Technical Education in India notified on 16 May, 2005 have failed to regulate the activities of Foreign Education Providers dealing with technical education. Only 5-6 institutions running programmes with foreign university collaboration without AICTE approval have been issued show cause notice so far. (Para 1.9)

In such a scenario, the Committee strongly feels that there is an urgent need for having a centralized policy and regulatory regime for Foreign Educational Institutions operating in the country. The Committee, therefore, welcomes the proposed legislation which is being brought forward with the twin objective of maintaining the standards of higher education within the country as well as protecting the interest of students. The Committee also feels that enactment of such a legislation will provide enhanced research opportunities and access to innovative areas of study to Indian students. (Para 1.10)

II. CONSULTATION PROCESS

Although the Department has sought to allay the aforesaid doubts by saying that all the foreign medical institutions would be governed by the relevant Indian Acts in the area of medical education, the Committee feels that the doubts raised and modifications suggested by the Ministry of Health and Family Welfare should have been fully taken care of in the proposed Bill. This would have brought more clarity to the Bill and would obviate any ambiguity therein. The Committee, therefore, recommends that the Department may bring necessary modifications in the Bill, so as to make it more comprehensive by including specific provision for medical education thereby safeguarding the interests of students as well as other stakeholders. (Para 2.9)

The Committee is of the view that all the issues raised by UGC and JNU are very crucial and need to be addressed. It would be appropriate if they are suitably incorporated

in the Act itself or in the rules/regulations proposed to be framed thereunder. General provision like clause 12 of the Bill regarding applicability of other laws of the country would be too inadequate and not serve the purpose. (Para 2.12)

The kind of feedback received from other stakeholders compels the Committee to observe that the consultation process which should have been the main factor for formulating such a path-breaking legislation was not given due consideration by the Department. The Committee has made an attempt to make amends by inviting suggestions from all concerned and interacting with the stakeholders to the extent possible. However, such an exercise should have been carried out by the Department before bringing the Bill in Parliament, so that a comprehensive view could have been taken at the drafting stage itself. All such issues/doubts, both general and on specific provisions of the Bill have been addressed by the Committee in subsequent part of the Report. (Para 2.13)

III. EXPERT COMMITTEE RECOMMENDATIONS

3.2 The Committee observes that a number of recommendations made by the CNR Rao Committee are reflected in the proposed legislation. However, the Committee is surprised to note that many significant and very relevant recommendations/observations made by the Expert Committee as indicated below have not been found acceptable by the Department:

- approvals may be in two parts: first for a limited initial period on a trial basis and second, for a longer term approval after review of performance in the initial short term.
- Initial short-term approvals may be considered only for those foreign providers who are accredited in their own country. In all such cases, the latest detailed audit report of the accreditation agency must be submitted with the application
- Franchising/Off-Shore Study Centres should be discouraged.
- Desirable forms of entry would be : Twinning, Programmatic Collaborations.
- Adequate safeguards will have to be put in place to guard against poaching of faculty from established Indian Institutions.
- Private initiatives, local and foreign may be allowed but only on equal terms. Thus, if private foreign education providers are allowed, then domestic private operators will also have to be allowed. (Para 3.2)

The Committee would like to point out that these recommendations of the Expert Committee are based on genuine concerns about the protection of our young students in every respect. The Committee feels that recommendation regarding initial approval that too for only those Foreign Education Providers duly accredited in the home country followed by extension of approval after review of their performance needs to be looked into. The Committee would like to point out that clause 4(3) as presently worded does not make the accreditation status of Foreign Education Provider mandatory. The Committee is also not inclined to agree with the contention of the Department that franchising was not being permitted in view of track-record of Foreign Educational Institution being the criterion. The Committee would like to point out that as per clause 13, Foreign Educational Institutions conducting certificate courses are only to report their activities to the Commission and publish the required information on their website. Such Foreign Educational Institutions can operate not only on their own but also through collaboration or partnership and franchising can be a partnership between a Foreign Educational Institution and Indian Institution. (Para 3.7)

The Committee would also like to point out that acute shortage of qualified and experienced Faculty in higher educational institutions in the country is a cause of serious concern. Nobody would deny the fact that with the entry of Foreign Educational Institutions in the country, this problem is bound to aggravate further. The Committee, therefore, strongly feels that as recommended by the CNR Rao Committee, Government has to put in place adequate safeguards against poaching of Indian Faculty by Foreign Educational Institutions. The Committee would like to emphasize that all these recommendations of the CNR Rao Committee need to be suitably reflected either in the Act or rules/regulations to be made thereunder. (Para 3.8)

The Committee strongly feels that concerns raised in the NUEPA Study are very crucial and relevant and need to be looked into before the proposed legislation is enacted. The Committee is of the view that expert committees set up by Government and study conducted by its bodies should be given due importance, specially when a major policy change in higher education sector involving the interest of young students is going to be made. (Para 3.10)

IV. STATUS OF FOREIGN EDUCATIONAL INSTITUTIONS IN OTHER COUNTRIES

The Committee takes note of all the models or guidelines adopted by different countries regulating the entry and operation of foreign educational institutions. Different countries have legislation in this regard which suit their own system. The socio-economic set-up of India is different from the other countries which cannot be blindly followed. The Committee is of the view that experience of these countries where Foreign Educational Institutions have already been operating needs to be analysed and conditions like entry by invitation and mandatory accreditation in home country can be adopted, at least for the initial years. The Committee finds no harm in a cautious approach in the initial period so as to fully protect the interest of students as well as maintain the required standard of higher education. (Para 4.3)

V. CONSTITUTIONAL VALIDITY OF THE BILL

The Committee is of the view that reservation of the Indian Council of Universities about the Constitutional validity of the proposed legislation does not seem to be well-placed. As rightly pointed out by the Department, after insertion of Entry 25 in List III in 1976, Parliament is fully competent to legislate on matters relating to higher education, including universities. One must also not forget that the enactment of a legislation regulating entry and operation of all the foreign educational institutions is necessary to maintain the standards of higher education within the country as well to protect the interest of the students and in public interest. In such a scenario, education being in the Concurrent List, initiative taken by the Department for formulation of a Central Law should be considered a welcome step by all concerned. (Para 5.3)

VI. GENERAL ISSUES

Reservation Policy

The Committee endorses the view of the Department that since the reservation law is not applicable to private higher educational institutions, at present, it can not be made applicable to Foreign Educational Institutions also for the time being. However, as and when a law is enacted by Parliament to provide for reservations in private higher educational institutions, the same will be applicable to Foreign Educational Institutions also. (Para 6.4)

Independent regulatory mechanism for safeguarding the interest of students studying in FEIs

The Committee is of the opinion that although UGC has been empowered to regulate the entry and operations of the Foreign Educational Institutions but it does not have enough teeth to effectively deal with Foreign Educational Institutions in the stricter sense of a regulator required for the purpose. The Committee, therefore, desires that an independent body should be there specifically for better effective monitoring of the wide ranging areas such as curriculum, fee, faculty, salary structure etc. from the point of view of its implication in the Indian scenario as well for protecting the interests of students, teachers and other employees. The Committee would also like to point out that clause 15 (2) (c) is a general provision giving powers to UGC to make regulations on any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations. In the light of what has been stated earlier, the proposed Bill must clearly define the nodal regulatory entity to define guidelines, prescribe the rules, procedures and regulations which need to be adhered to as well as develop a robust capability of monitoring their compliance. Leaving these functions to several severed entities, will lead to contradictions. (Para 6.7)

6.8 The Committee also takes note of AICTE Regulations for Entry and Operations of Foreign Universities/Institutions imparting Technical Education in India, 2005 which are limited to technical education. One of the objectives of these Regulations is to safeguard the interest of student community in India and ensure uniform maintenance of norms and standards as prescribed by various statutory bodies and also to enforce accountability for all such educational activities by Foreign Universities/Institutions in India. These Regulations, accordingly, have specific provisions about inspection of Foreign Educational Institutions, submission of Annual Reports to AICTE, accreditation by NBA and mandatory nature of advice given by AICTE to such institutions. The Committee finds that these Regulations could be framed due to specific powers and functions given to AICTE under the Act itself. However, no such powers are envisaged to be given to UGC or any other body or Council or Commission established under any Central Act for the time being in force to regulate the entry and operation of Foreign Educational Institutions. The Committee is of the view that power of withdrawal and rescission of notification of Foreign Educational Provider given to UGC cannot be equated with the other regulatory and monitoring functions as provided for in the AICTE Regulations. The Committee, accordingly, is of the view that specific powers need to be incorporated in the Act itself so as to facilitate the framing of regulations once the Act comes into force. (Para 6.8)

Migration of Faculty

The Committee appreciates the concern expressed by the various stakeholders regarding shortage of faculty already existing in the country. Increasing number of higher educational institutions being set up, both in the Government and private sector has led to a situation when acute shortage of qualified and experienced faculty is being faced across the country. A number of initiatives taken by the Government to attract young students towards teaching profession have so far failed to show any significant improvement. In such a scenario, with the arrival of Foreign Educational Institutions/Foreign Education Providers, this problem is bound to get further aggravated. There will definitely be migration of qualified teachers from prestigious institutions towards the Foreign Educational Institutions during the initial years. This will further aggravate the shortage of qualified teachers in the native institutions, be it Government or private institutions. The Committee, therefore, opines that some viable norms can be prescribed regarding the hiring of teachers by Foreign

Education Providers from India and bringing in some percentage of the faculty from their country. An indirect positive impact of having such an arrangement would be that Indian teachers would get an opportunity to work in tandem with their foreign counterparts and *vice-versa*. In the process, Indian students will also stand benefited. The issue of the shortage of adequate, trained, high quality faculty needs to be addressed in a broader context of not only the needs of foreign education providers, but the health of existing educational institutions and the massive expansion programme consequent on the commitment to improve the Gross Enrolment Ratio. The Ministry must come up with a White Paper delineating a credible action plan seeking both conventional and innovative solutions to address this issue in a time-bound manner. (Para 6.14)

Location of Foreign Educational Institutions

While agreeing with the clarification given by the Department, the Committee would like to point out to another aspect of this issue which may create complications in future. Higher education in the country has witnessed a tremendous growth both in the private and Government sector. While there is no doubt that more and more institutions are within the reach of our students, it has also led to an unbalanced expansion. There are States having very high concentration of institutions offering various professional courses. In contrast, many States continue to lag behind. Concerns have also been raised about Foreign Educational Institutions being set up, by and large in big cities. In such a scenario, the Committee is of the view that besides sensitivity of the location, availability of higher educational institutions in that particular area should also be the criterion for grant of approval to a Foreign Educational Institution. Given large regional disparities in levels of education and footprint of educational institutions, Government must consciously foster arrangements in the location pattern of foreign institutions to mitigate these imbalances. (Para 6.16)

FEIs will restrict to only more popular and profitable courses

The Committee takes note of the apprehensions of the stakeholders as well as the limitations of the Government in restricting the Foreign Educational Institutions to offer specific courses. It is equally true in the context of Indian higher educational institutions, specially in the private sector. Professional courses like management, computer science and IT continue to show an ever-increasing demand, resulting in an unbalanced growth. Situation has reached to such an alarming level that basic science and humanities courses are being sidelined. In such a scenario, entry of Foreign Educational Institutions would worsen the situation further. As per a study conducted by NUEPA in 2004, only 5 out of 131 Foreign Education Providers in India were offering general courses like BA/BSc. and as many as 55 were offering Hotel Management and 45 MBA. The Committee finds that the situation has remained unchanged. As per AIU study of 2010, out of 60 Foreign Educational Institutions operating through academic collaboration, only one or two were offering general courses. Similarly, all the 49 Twinning Programmes were restricted to MBA, Hotel Management courses only. The Committee is of the view that as suggested by AICTE, industry job mapping *vis-à-vis* the number of seats available in each discipline should be undertaken in the country so as to have an idea about the ground realities. Based on these findings, feasibility of allowing operation of FEIs for specified courses can be explored and implemented accordingly. (Para 6.20)

Examination Pattern

The Committee agrees with the reply of the Department in view of the autonomous status of the universities in the country. (Para 6.22)

Vacant Seats in Technical Institutions

The Committee strongly feels that the need of the hour is overall development of higher education sector as India is looked upon as an economic power and prospective education hub. It was expected that the Department would ensure that the growth of this sector takes place uniformly encompassing all areas of higher education in the country. As far as possible, the skewed growth in one area and the neglect of another should be avoided which may prove harmful for the country. A balanced growth is what is needed at this juncture. The Committee, accordingly, recommends that an assessment at the ground level about the percentage of seats being offered in different programmes of higher education, both in the private and Government sector needs to be undertaken at the earliest. Only then, a clear picture about the demand and supply level would emerge. With the entry of Foreign Educational Institutions, urgency of such a survey has become more evident. Department being the nodal agency, has to play the lead role in co-ordination with State authorities. It should be a formal survey which needs to be cast in a dynamic context keeping in view both existing and emerging demand. This survey to be undertaken by the Department through a professional agency equipped to do so, should be in conjunction with corporates, service providers and all stakeholders, to determine the emerging demand pattern for bringing about a greater equilibrium between demand and supply. (Para 6.25)

Entry of low ranking institutions

The Committee agrees with the apprehensions expressed by the stakeholders in this regard and desires that proper care should be taken, while considering the proposals of Foreign Educational Institutions for operating in the country. The Committee further opines that to begin with, only a specified number of top institutions in the world may be invited to open their centres of excellence in India. In this regard, experience of countries like Malaysia and China where entry of Foreign Educational Institutions was only by invitation can prove to be useful in the initial period. Based on the review of implementation status of the Act, restricted entry can be done away with. (Para 6.28)

Level playing field

The Committee is aware that institutions in India already enjoy autonomy and similar laws will be applicable on the Foreign Educational Institutions with additional conditions like maintenance of Corpus Fund and non repatriation of funds etc. However, the Committee observes that viewpoint of UGC is the most appropriate one and may be made applicable to Foreign Educational Institutions. (Para 6.32)

Profit motive of FEIs and their integrity

The Committee is concerned over the motive of the Foreign Educational Institutions that may enter India. The Committee expects the Department to ensure keeping the unscrupulous institutions at bay by having a viable mechanism of monitoring of these institutions at various levels by the concerned regulatory bodies, both at the Central and State level. The Committee is of the view that recommendations of the CNR Rao Committee as well as the AICTE Regulations can be the benchmark based on which appropriate norms and guidelines and regulations for Foreign Educational Institutions can be formulated. (Para 6.35)

Students will still go abroad

6.38 The Committee also believes that the trend of students going abroad for higher

studies may not stop with the enactment of this legislation. However, it can be curtailed by ensuring that the Foreign Educational Institutions which set up their centres here live upto the expectations of the students. The Department has to ensure that, as said in the previous paras, Foreign Educational Institutions should retain their original status and high standard by employing highly qualified faculty, best teaching techniques, ambience etc. Moreover, institutions involved in research programmes and PG, doctoral programmes are bound to attract increasing number of prospective students who otherwise would have gone abroad for studies. Sincere efforts from all concerned and specially Foreign Education Providers shall be the key point of achievement of objectives with which the proposed legislation is being sought to be implemented. (Para 6.38)

VII. THE COMMITTEE MAKES THE FOLLOWING OBSERVATIONS/RECOMMENDATIONS ON SOME OF THE PROVISIONS OF THE BILL:

CLAUSE 2 : DEFINITIONS

Clause 2 (C) of the Bill deals with Definitions. (Para 7.1)

The Committee is not convinced by the clarification given by the Department. As things stand today, UGC deals with universities established/incorporated by Central/State Acts etc. and all technical institutions are handled by AICTE and medical institutions by MCI and all other categories of institutions dealing with professional courses fall under the ambit of respective statutory bodies. If all the statutory bodies are to be brought under the proposed over-arching Commission, then there is every possibility of creation of two separate commissions for higher and medical education. The Committee is, accordingly, of the view that the definition of the term 'Commission' should be made more specific and include all those councils related to specific streams of education. (Para 7.5)

The Committee finds substance in the arguments put forth by the stakeholders about eligibility conditions for Foreign Educational Institution being not adequate enough. The Committee is of the firm opinion that absence of any qualitative criteria is likely to create ample scope for entry of all kinds of Foreign Educational Institutions, irrespective of their standing in delivering quality education in their country of origin. This is all the more required when compared with the domestic institutions which are established by not-for-profit societies/trusts which have been registered in the country. The Committee would also like to point out that detailed procedure laid down in clause 4 to be followed by a Foreign Educational Institution to be notified as a Foreign Education Provider and the power given to Registrar to make inquiries through regulations will fail to ensure Foreign Educational Institutions meeting the requirement of providing quality education in India. Because this very provision lays down that the condition of accreditation from the accrediting agency of the home country would be applicable only if such a mechanism existed in that country. (Para 7.10)

The Committee observes that the definition of the term 'Foreign Educational Institution' also covers those institutions offering certificate courses. Committee's attention has also been drawn by clause 13, as per which such a Foreign Educational Institution need not be notified as Foreign Education Provider and can operate in India, only condition being submission of report to UGC as specified by regulations. The Committee, strongly feels that this may go against the interest of Indian students. The Committee, therefore, recommends that express provisions may be made in the Bill itself to cope up with such instances so as to protect the interest of the student community. (Para 7.11)

The Committee is of the opinion that the definition of the term 'Registrar' needs modification as he will be the designated authority receiving the applications of Foreign Educational Institutions and forwarding the same to different statutory authorities like MCI, DCI, AICTE, Pharmacy Council etc. as a Foreign Educational Institution can be a university, a technical institution or even a medical institution. Presently, all these bodies are functioning as separate entities and it will only be after the legislation relating to the proposed over-arching Commissions – separately for higher education and medical education, is enacted and the two Commissions set up, that all the statutory regulatory bodies can be subsumed thereunder. (Para 7.13)

The Committee is not satisfied with the reply of the Department. The Committee is of the view that there should be clear demarcations between technical and medical education as in the absence of such authority, it may cause more confusion later on. The Committee, therefore, is of the view that specific provision may be incorporated in the legislation itself by including MCI, DCI, AICTE etc. for medical and technical education and it should not be left as being implied as pointed out by the Department. (Para 7.15)

The Committee, while taking note of the concern expressed by many stakeholders does not approve of this kind of arrangement as it raises doubt about the status of Foreign Educational Institution which would decide as to where a part of the study has to be undertaken by the students. The Committee is of the view that the possibility of a Foreign Education Provider having campuses in several countries and students being forced to join any one of them but not one located in the home country does not seem to be very viable and will definitely not go in favour of students. The Committee would also like to point out that details to be given in the prospectus as envisaged in clause 6 do not include, any information relating to 'twinning programme'. Further, inclusion of such information in the prospectus or in the rules/regulations will not in any way confirm the right of students to study in the country of origin. The Committee, therefore, recommends that in the definition of the term 'twinning programme', the words 'partly in any other educational education situated outside India' should be replaced by the words 'its main campus in the country in which such institution is primarily established or incorporated'. (Para 7.19)

VIII. Clause 4 : Foreign educational institutions to apply for being notified as foreign education providers

The Committee is of the opinion that many areas have been left open in this Bill. The Committee feels that the condition of corpus Fund of fifty crore rupees can be relaxed in the case of Twinning Programme and smaller Foreign Educational Institutions. However, in the case of medical institutions, quantum of corpus fund needs to be enhanced. The Committee would also like to emphasize that there should be more stress on the quality and standards instead of the condition of twenty years of operation of the Foreign Educational Institutions in their home countries. The quality aspect can be easily taken care of by making prior accreditation mandatory. Further, Foreign Education Providers will be subjected to national laws, which will also include compulsory accreditation, once the National Accreditation Authority Bill was enacted. The Committee also takes note of the conditions laid down for Indian Institutions in whose case approval by statutory authorities is first given on provisional basis for a limited period of time, with further extension/permanent approval being subject to satisfaction of statutory authorities to be checked through regular/periodical inspection. The Committee is of the view that a viable mechanism on similar pattern for Foreign Educational Institutions also needs to be worked out. (Para 8.5)

Clause 5 : Quality of programmes offered in India, use of income from Corpus Fund, and investment of surplus in generated revenue

The Committee does not find the clarification of the Department very convincing. It must be kept in mind that identical norms and conditions cannot be made applicable on Foreign Educational Institutions and Indian Institutions. Significant differences are bound to be there if we look at the home country of Foreign Educational Institutions and cultural and social background of our country. The Committee also feels that there is a need for having an abundant precaution in this sensitive area. Committee's attention has been drawn towards the 2007 version of the draft Bill which had the following specific provision:

“A Foreign Education Provider shall ensure that it takes into account the cultural and linguistic sensibilities of the people of Indian and shall not offer a course of study which has a context adversely affecting the sovereignty and integrity of India”.

The Committee is of the view that inclusion of such a provision will take care of any eventuality arising after the enactment of the Bill. The Committee, accordingly, recommends inclusion of the above provision as a proviso to clause 5(1). (Para 9.4)

While the Committee finds merit in the contention of the Department, it would like to point out that applicability of all Indian Laws to Foreign Education Providers alone will not serve the purpose. A mechanism for monitoring of Foreign Education Providers and required follow-up action will also have to be in place simultaneously. (Para 9.6)

The Committee observes that as provided in clause 4(5), the Registrar has been entrusted with the responsibility of making inquiries so as to ensure that the Foreign Educational Institutions meets the requirements to provide quality education in India. For this purpose, regulations are to be formulated by the UGC under clause 15(2)(a). The Committee is of the view that some mechanism of pre-check should be included in these regulations as incorporated in the AICTE Regulations for Entry and Operation of Foreign Universities/Institutions imparting Technical Education in India, 2005. (Para 9.7)

It was, accordingly, suggested that Government should consider a fixed percentage of surplus to be carried out of India by Foreign Educational Institutions so as to prevent any potential misuse of any provision of Indian laws. (Para 9.8)

The Committee takes note of the justification given by the Department that diversion of resources from the institution is prohibited so as to ensure that mere profit should not be the consideration for establishing an institution. The surpluses generated have to be utilized for the growth and development of the institution only so as to prevent commercialization. (Para 9.9)

The Committee is of the opinion that this clause may prove a deterrent to the prospective Foreign Educational Institutions/Foreign Education Providers entering the country. It is a kind of one way traffic with no going back and large and reputed education providers may feel hesitant in opening their campus in India. The Government may consider some other arrangement so that the interests of both the country and that of the Foreign Educational Institutions/Foreign Education Providers are well served and protected. Government can devise some incentives to those Foreign Educational Institutions which would utilize their surplus in India itself. The Government has to be very cautious regarding the standard of education being provided by the Foreign Educational Institutions. It has to progressively achieve in a time-bound manner as approved by the designated regulator. The Government may devise a mechanism that the institutions which are accredited in their own country should be cross checked here also so as to ensure the

maintenance of required standard of education. It is not only the standard of education that the Government has to be aware of, but also the kind of education being provided by the Foreign Educational Institutions and has to ensure that those education providers should not indulge in providing religious or fundamentalist education which may be a threat to the integrity and the sovereignty of the country. (Para 9.10)

X. Clause 6 : Mandatory publication of prospectus, its contents and its pricing

The Committee fails to comprehend the omission of reference of statutory authority/prescribed norms with regard to fee details, refunding thereof, admission/selection process of students and details of teaching faculty when such a reference is there with regard to number of seats, eligibility criteria, educational qualifications and syllabus details. The Committee is of the firm view that any ambiguity in this regard would go against the interests of students as well as teachers. (Para 10.8)

10.9 The Committee takes note of the fact that India's offer under GATTs provides that there would be no limitation on market access for Foreign Educational Institutions subject to the condition that fees to be charged can be fixed by an appropriate authority and no capitation fee or profiteering and, subject to regulations in place or to be prescribed by appelland regulatory authority. The said offer is being fully reflected in the present proposal. (Para 10.9)

The Committee shares to an extent the apprehension of the various stakeholders regarding autonomy to be given to Foreign Educational Institutions/Foreign Education Providers. The Committee, however, also agrees to the view of the Government that the autonomy given to the domestic universities in their operations and functioning may be extended and the same kind of treatment should be given to the Foreign Educational Institutions so as to provide a level playing field. The Committee also understands that the Foreign Educational Institutions in their structure are different from the domestic universities. They would have different mindset and one cannot deny that the element of profiteering may also be there. The Department has to be vigilant in this regard and devise some mechanism by which Foreign Educational Institutions are not given absolute freedom in fixing of fees, admission criteria, hiring of faculty etc. keeping in mind the social fabric in the country. The Committee is, therefore, of the opinion that till any mechanism regulating the fee structure is evolved, the minimum requirement of basis/norms/criteria about the quantum of fees to be charged has to be mandatorily mentioned in the relevant clause. The Committee would also like to point out that the term 'other charges' also needs to be made specific by indicating the various components coming under its ambit. Similarly, the percentage of fees to be refunded should not be left at the discretion of institutions. A reference to the same can be easily incorporated. (Para 10.10)

The Committee, accordingly, recommends that reference about prescribed norms/statutory obligations should be there in respect of faculty details also. Secondly, it may happen that a faculty member may leave the institution or a new faculty member may join the institution mid-session. The Committee is of the view that institutions should have the option to make necessary changes in the website in the event of the faculty members leaving or joining. (Para 10.11)

XI. Clause 7 : Withdrawal and rescission of notification of Foreign Education Provider

The Committee observes that under this provision, the Commission can recommend to the Central Government for withdrawal of recognition and rescission of the notification

after giving a reasonable opportunity of being heard to the Foreign Education Provider. Similar provision exists in respect of Indian Institutions in the relevant laws. However, this provision also gives another opportunity to the management/teachers/student council/parents to represent to the Central Government against the proposed recession within thirty days. It is only after consideration of such representation, the Central Government may withdraw the recognition and rescind the notification. (Para 11.2)

The Committee is not fully convinced by the argument put forth by the Department for having such a provision. The Committee is well aware of the fact that the decision to de-recognise and de-notify the institution rests with the Government and not the UGC which is only a recommendatory body in such cases. The Committee would, however, like to point out that UGC, a statutory body is the regulatory body for higher educational institutions in the country whose recommendation will be forthcoming only after giving a reasonable opportunity of being heard to the Foreign Education Provider. Interest of students as well as teachers are fully addressed in sub-clauses (6) and (7). Secondly, recommendation of the UGC to the Central Government would be based on a detailed exercise which would also involve interaction with the management and other responsible/designated authorities, besides inspection of relevant records and infrastructure etc. Management being given another opportunity and decision of the Central Government to withdraw recognition or otherwise being based on any new facts being brought to the notice of the Central Government by any of the affected parties in a way negates the expert advice tendered by a statutory body. The Committee would also like to draw the attention to the AICTE Regulations for Entry and Operation of Foreign Universities/Institutions imparting Technical Education in India, 2005, whereunder AICTE after giving reasonable opportunity to the concerned institution through hearing or making inquiry is fully empowered to withdraw the registration granted to such institution. (Para 11.4)

In the light of the above, the Committee recommends that a provision whereby the teachers, student council and parents can approach the UGC when the exercise of examining any violation of concerned laws/rules/regulations/orders by the Foreign Education Producer is going on. The other option could be that UGC is also involved/consulted in the event of any new facts being brought to the notice of Central Government by the management, teachers, student council, parents. (Para 11.5)

XII Clause 8 : Penalties

The Committee observes that same penalty has been prescribed on three different categories of entities *i.e.* a person associated with a Foreign Educational Institution not being a Foreign Education Provider, a Foreign Education Provider whose recognition has been withdrawn and a Foreign Education Provider, duly recognized and notified as such. What is more surprising is that different types of contraventions will attract same penalty, the only exception being forfeiture of the corpus fund of Foreign Education Provider. (Para 12.3)

The Committee is of the firm opinion that in line with the applicability of national laws on Foreign Educational Institutions/Foreign Education Providers, there should be no element of discrimination so far as imposition of penalty is concerned. This fact has been agreed to by the Government also. (Para 12.6)

The Committee finds it rather intriguing that while any person associated with a Foreign Educational Institution not being a Foreign Education Provider or whose recognition has been withdrawn is liable to be penalized for publishing/releasing misleading/wrongful

advertisement, no such penalty is envisaged for a recognized Foreign Education Provider indulging in such an activity. (Para 12.7)

The Committee would like to emphasize that there should be no discriminatory approach in the handling of both Indian and Foreign Institutions. They need to be treated at par specially in the event of their contravening provisions of their nodal Acts as well as other relevant laws of the land which are supposed to be made applicable to them. The Committee would appreciate if provisions relating to penalties in both these legislations are reviewed and made uniformly applicable. (Para 12.8)

XIII. Clause 9 : Power of Central Government to exempt

The Committee, after analysing the arguments put forth by the Department for having an exemption clause is of the view that concerns raised by the stakeholders cannot be totally ignored. Exemption proposed to be given are major ones. Not maintaining corpus fund of fifty crore rupees and as a result, no compulsion to utilize 75 per cent of the income from corpus fund for development of the institution and depositing the balance back in the corpus fund being there gives rise to viability of even reputed institutions in operating in a foreign country. Not only this, applicability of clause 8 relating to penalties on such reputed institutions will also be not there fully. The Committee would like to point out that such institutions will be exempted from clause 3 relating to prohibition on admission, collection of fees etc. by a Foreign Educational Institution unless being notified as an Foreign Education Provider under clause 4(8). As a result, penalty (Rs.10 lakh to Rs.50 lakh) for violating clause 8 (1) (a), *i.e.* offering or giving admission to any person or collecting fee or awarding any degree, diploma cannot be imposed on them. (Para 13.6)

The Committee also takes strong objection to exemption of reputed institutions from clause 6 relating to mandatory publication of prospectus. In the absence of such a vital piece of information enumerating all kinds of details about the institutions, it would be a difficult task for prospective students to have an actual idea about the availability of education facilities. Protection of interests of students in every respect has to be the top priority for all concerned. The Committee fails to comprehend the rationale for exempting reputed institutions from adhering to this very basic requirement. Rather availability of relevant details about an institution is bound to give publicity about its standing. (Para 13.7)

XIV. Clause 13 : Foreign Educational Institution conducting certificate courses to report its activities to Commission

The Committee would like to point out that no doubt, inclusion of such a clause will facilitate the entry of more and more institutions which will give short duration vocational courses leading to immediate placements and thus becoming more popular among a particular strata of the society. However, there is every likelihood that such institutions may grow into an unmanageable proportion due to the lack of proper legislation. It may worsen the situation which the country is facing presently. The Committee is of the view that in the absence of any penalty provision proposed in the Bill for such Foreign Educational Institutions, mere furnishing of reports to UGC would remain an exercise on paper only. The Committee is compelled to draw attention to AICTE Regulations 2005 which have proved to be ineffective in curbing the activities of Foreign Educational Institutions in spite of having sufficient checks. One must also not forget that the main objective of the proposed legislation to protect the Indian students from the various malpractices resorted to by a number of Foreign Educational Institutions operating in the country would perhaps

remain partially achieved. The Department needs to look into this aspect thoroughly and put in place certain mechanism that will regulate the operations of such Foreign Educational Institutions. (Para 14.6)

The Committee observes that definition of the term 'Foreign Educational Institution' covers those institutions also which offer certificate courses and which can very well apply for being recognized as a Foreign Education Provider under clause 4 and thus covered under other relevant clauses. In such a situation, another exclusive clause for Foreign Educational Institutions offering certificate courses to report only to UGC and publicise their activities cannot be considered a prudent policy decision. The Committee, accordingly, recommends deletion of clause 13. (Para 14.7)

- XV. Clause 14 : Power to make rules
Clause 15: Power to make regulations

The Committee understands that it is an important aspect of any legislation. Any delay in framing of rules or regulations will defeat the very purpose of this legislation. Delay in making of rules will further delay the proper enforcement of this legislation. The Committee expects that priority will be given to framing of required rules/regulations once the Bill is enacted. (Para 15.2)

MINUTES

XIII
THIRTEENTH-MEETING

The Committee on Human Resource Development met at 3.30 p.m. on Monday, the 31st January, 2011 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. Shri Prakash Javadekar

LOK SABHA

4. Shri Kirti Azad
5. Shri P.K. Biju
6. Shrimati J. Helen Davidson
7. Shri P.C. Gaddigoudar
8. Shri Rahul Gandhi
9. Shri P. Kumar
10. Shri Prasanta Kumar Majumdar
11. Shri Sheesh Ram Ola
12. Shri Joseph Toppo
13. Shri Vinay Kumar Pandey 'Vinnu'
14. Shri P.Vishwanathan
15. Shri Madhu Goud Yaskhi

SECRETARIAT

Shrimati Vandana Garg, *Additional Secretary*

Shri N.S. Walia, *Director*

Shri Arun Sharma, *Joint Director*

Shri Sanjay Singh, *Assistant Director*

Shrimati Himanshi Arya, *Committee Officer*

Shrimati Harshita Shankar, *Committee Officer*

LIST OF WITNESSES

I. MINISTRY OF WOMEN AND CHILD DEVELOPMENT ON THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) AMENDMENT BILL, 2010

1. Shri D.K. Sikri, Secretary
2. Shri Sudhir Kumar, Additional Secretary
3. Ms. Preeti Madan, Joint Secretary
4. Ms. Kalyani Chadha, Director

II. DEPARTMENT OF HIGHER EDUCATION ON THE FOREIGN EDUCATIONAL INSTITUTIONS (REGULATION OF ENTRY AND OPERATIONS) BILL, 2010

1. Shrimati Vibha Puri Das, Secretary
2. Shri Sunil Kumar, Additional Secretary
3. Dr. Ved Prakash, Vice-Chairman, UGC
4. Shri R.P. Sisodia, Joint Secretary
5. Dr. G. Narayana Raju, Joint Secretary, Legislative Counsel, Ministry of Law & Justice
6. Shri Diwakar Singh, Deputy Legislative Counsel, Ministry of Law & Justice

2. At the outset, the Chairman welcomed the members to the meeting of the Committee convened to hear the Secretary, Ministry of Women and Child Development on the Juvenile Justice (Care and Protection of Children) Amendment Bill, 2010 and the Secretary, Department of Higher Education on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010. The Chairman informed the members that the 229th Report of the Committee on the Architects (Amendment) Bill, 2010 was presented to Hon'ble Chairman, Rajya Sabha on 24th January, 2011. He, then, thanked the members for their co-operation during the study visit of the Committee from 17th to 23rd January, 2011 to Thiruvananthapuram, Bengaluru and Chennai.

3. * * *

(The witnesses then withdrew).

4. Thereafter, the Committee heard the views of Secretary, Department of Higher Education on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010. The Chairman and members sought clarifications on the various provisions of the Bill which were replied to by the Secretary. The Committee decided to send a questionnaire on the Bill to the Department for detailed replies.

5. Verbatim record of the proceedings was kept.

6. The Committee then adjourned at 6.10 P.M.

XIV
FOURTEENTH MEETING

The Committee on Human Resource Development met at 3.00 p.m. on Monday, the 14th February, 2011 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. Keshva Rao
4. Shri N.K. Singh

LOK SABHA

5. Shri Kirti Azad
6. Shri P.K. Biju
7. Shri Jeetendrasingh Bundela
8. Shri Suresh Chanabasappa Angadi
9. Shrimati J. Helen Davidson
10. Shri P.C Gaddigoudar
11. Shri Prataprao Ganpatrao Jadhav
12. Shri P. Kumar
13. Capt. Jai Narain Prasad Nishad
14. Shri Sheesh Ram Ola
15. Shri Ashok Tanwar
16. Shri Madhu Goud Yaskhi

SECRETARIAT

Shrimati Vandana Garg, *Additional Secretary*

Shri N.S. Walia, *Director*

Shri Arun Sharma, *Joint Director*

Shri Sanjay Singh, *Assistant Director*

Shrimati Himanshi Arya, *Committee Officer*

Shrimati Harshita Shankar, *Committee Officer*

LIST OF WITNESSES

1. Prof. S.S. Mantha, Chairman, AICTE
2. Dr. (Col.) M.K. Hada, Member-Secretary, AICTE

2. At the outset, the Chairman welcomed the members to the meeting of the Committee convened to hear the views of the Chairman, AICTE on the Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010 and the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 and also to consider and adopt Draft 234th Report on the Central Educational Institutions (Reservation in Admission) Amendment Bill, 2010

3. * * *

4. * * *

5. A verbatim record of the proceedings was kept.

6. The Committee then adjourned at 5.25 P.M. to meet again on 15th February, 2011.

XV
FIFTEENTH MEETING

The Committee on Human Resource Development met at 11.00 A.M. on Tuesday, the 15th February, 2011 in Committee Room. 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

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

LOK SABHA

5. Shri Kirti Azad
6. Shri P.K. Biju
7. Shri Jeetendrasingh Bundela
8. Shri Suresh Chanabasappa Angadi
9. Shrimati J. Helen Davidson
10. Shri P.C Gaddigoudar
11. Shri Prataprao Ganpatrao Jadhav
12. Shri Prasanta Kumar Majumdar
13. Capt. Jai Narain Prasad Nishad
14. Shri Sheesh Ram Ola
15. Shri Ashok Tanwar
16. Dr. Vinay Kumar Pandey 'Vinnu'
17. Shri P. Viswanathan
18. Shri Madhu Goud Yaskhi

SECRETARIAT

Shrimati Vandana Garg, *Additional Secretary*

Shri N.S. Walia, *Director*

Shri Arun Sharma, *Joint Director*

Shri Sanjay Singh, *Assistant Director*

Shriamti Himanshi Arya, *Committee Officer*

Shrimati Harshita Shankar, *Committee Officer*

LIST OF WITNESSES**Prohibition of unfair practices in Technical Educational Institutions, Medical Educational Institutions and Universities, Bill, 2010****I. Manav Rachna International University, Faridabad**

1. Dr. N.C. Wadhwa, IAS (Retd.), Vice Chancellor
2. Col. V.K. Gaur, Executive Director and Dean
3. Dr. V.K. Mahna, Executive Director and Dean – Academics
4. Dr. Ashok Kumar, Executive Director – Administration
5. Ms. Shweta Bajaj, Law Officer

II. Amity University, Noida

1. Shri Atul Chauhan, Chancellor
2. Dr. Balvinder Shukla, Pro Vice Chancellor (Academics) and Director General, Amity School of Engineering & Technology (ASET), Amity University, U.P.
3. Dr. B.B. Singh, Director & Head, Quality Assessment & Enhancement (QAE), Amity University, U.P.
4. Dr. Sunita Singh, Director (Admissions) Amity University, U.P.
5. Shri R.M. Sharma, Principal Advisor to Founder President, Ritnand Balved Education Foundation (RBEF).
6. Rear Admiral Kochhar, Asstt. Vice Chancelloer, and OSD (HR & Admn.), Amity University, U.P.

III. Shri Guru Gobind Singh Indraprastha University, Delhi

1. Dr. Bhaskar P. Joshi. Registrar
2. Prof. Yogesh Singh, Controller of Examinations
3. Dr. Nitin Malik, Joint Registrar (Affiliation)

IV. Association of Indian Universities

1. Dr. P.T. Chande, President, AIU & Vice Chancellor, Kavikulguru Kalidas Sanskrit University, Ramtek, Maharashtra
2. Prof. Beena Shah, Secretary General, AIU
3. Mrs. Vijaya Sampath, PS to SG, AIU

Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010**V. Association of Indian Universities**

1. Dr. P.T. Chande, President, AIU & Vice Chancellor, Kavikulguru Kalidas Sanskrit University, Ramtek, Maharashtra
2. Prof. Beena Shah, Secretary General, AIU
3. Mrs. Vijaya Sampath, PS to SG, AIU

VI. Indian Council of Universities

1. Brig. (Dr.) S.S. Pabla, President, Vice Chancellor, Sikkim Manipal University
2. Dr. D.S. Chauhan, Secretary, Vice Chancellor, Utrakhand Technical University, Utrakhand

3. Mr. Ashok Kumar Mittal, Chancellor, Lovely Professional University
4. Mr. Naresh Kaushik, Sr. Adv., Supreme Court (Advisor to Council)

VII. Education Promotion Society for India

1. Dr. G. Viswanathan, President, EPSI
2. Dr. H. Chaturvedi, Alternate President Director, BIMITECH, Greater Noida
3. Mr. P.K. Gupta, Chairman, SGI Group of Institutions
4. Prof. B. Bhattacharyya, Member, Director General, IILM
5. Prof. G.D. Sharma, President, Society for Education and Economic Development
6. Dr. G.C. Saxena, Advisor, Former VC, Agra Uni. & Faizawad University
7. Mr. Sekar Viswanathan, Vice President, VIT University
8. Mr. P. Palanivel, PRO, EPSI

2. At the outset, the Chairman welcomed the members to the meeting of the Committee convened to hear the representatives of private Institutions/Universities on the Prohibition of Unfair Practices in Technical Educational Institution, Medical Educational Institutions and Universities, Bill, 2010 and other institutions/stakeholders on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010.

3. * * *

(The witnesses then withdrew)

4. The Committee, then, heard the views of the representatives of the Association of Indian Universities on various provisions of the Prohibition of Unfair Practices in Technical Educational Institution, Medical Educational Institutions and Universities, Bill, 2010 and the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010. The Chairman and Members raised certain queries on both the Bills which were replied to by the witnesses. The Committee decided to send a questionnaire on both the Bills to the organization for its written replies.

(The witnesses then withdrew.)

5. The Committee, thereafter, heard the views of the representatives of the Indian Council of Universities and the Education Promotion Society for India on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 with the focus on the apprehensions of the private entities in the higher education sector and the likely impact of the legislation on the private institutions. The Chairman and Members raised some queries which were replied to by the witnesses. It was decided to send a questionnaire to both the organizations for their written replies.

6. A verbatim record of the proceedings was kept.

7. The Committee then adjourned at 5.35 P.M.

XVII
SEVENTEENTH MEETING

The Committee on Human Resource Development met at 3.30 p.m. on Tuesday, the 8th March, 2011 in Room No. '63', First Floor, Parliament House, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

1. Shri Oscar Fernandes — *Chairman*
2. Dr. K. Keshava Rao
3. Shri Prakash Javadekar
4. Shri M. Rama Jois
5. Dr. Janardhan Waghmare

LOK SABHA

6. Shri Kirti Azad
7. Shri P.K. Biju
8. Shri Jeetendrasingh Bundela
9. Shri Deepender Singh Hooda
10. Shri P. Kumar
11. Shri Tapas Paul
12. Shri Ashok Tanwar
13. Shri Vinay Kumar Pandey 'Vinnu'
14. Shri Madhu Goud Yaskhi

SECRETARIAT

Shrimati Vandana Garg, *Additional Secretary*

Shri N.S. Walia, *Director*

Shri Sanjay Singh, *Assistant Director*

Shrimati Himanshi Arya, *Committee Officer*

Shrimati Harshita Shankar, *Committee Officer*

LIST OF WITNESSES

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

I. University Grants Commission

Prof. Ved Prakash, *Chairman*

II. Jawarharlal Nehru University

1. Prof. S.K. Sopory, *Vice-Chancellor*
2. Prof. V.K. Jain, *Registrar*
3. Dr. S. Chandrasekharan, *Coordinator (Evaluation)*

III. Indira Gandhi National Open University

Prof. V.N. Rajasekharan Pillai, Vice-Chancellor

2. At the outset, the Chairman welcomed the members to the meeting of the Committee convened to hear the Chairman, University Grants Commission (U.G.C.), Vice-Chancellor of Jawaharlal Nehru University (J.N.U.) and Vice-Chancellor of Indira Gandhi National Open University (IGNOU) on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010.

3. The Committee, then, heard the views of the Chairman of U.G.C. and Vice-Chancellors of J.N.U. and IGNOU on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 and their apprehensions on the impact of the legislation on the existing Higher Education Sector and the shortage of faculty in the education sector. Members raised certain queries which were satisfactorily answered by the witnesses. The Committee decided to send a questionnaire alongwith the queries of Shri P.K. Biju, M.P., Lok Sabha to U.G.C. and both the Universities for written replies.

(The witnesses then withdrew)

4. The Committee, thereafter, decided to have further deliberations on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 and hear the views of the Secretary, Ministry of Health and Family Welfare on the said Bill in its next meeting. Further, the Committee also decided to hear the views of the Chairman, Board of Governors, Medical Council of India on the same.

5. A Record of the proceedings was kept.

6. The Committee then adjourned at 5.45 P.M.

XVIII
EIGHTEENTH MEETING

The Committee on Human Resource Development met at 3.45 P.M. on Thursday, the 17th March, 2011 in Room No '63', First Floor, Parliament House, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

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

LOK SABHA

6. Shri P.K. Biju
7. Shri Suresh Chanabasappa Angadi
8. Shri P.C. Gaddigoudar
9. Shri Tapas Paul
10. Shri Ashok Tanwar
11. Shri Vinay Kumar Pandey 'Vinnu'

SECRETARIAT

Shrimati Vandana Garg, *Additional Secretary*

Shri N.S. Walia, *Director*

Shri Arun Sharma, *Joint Director*

Shri Sanjay Singh, *Assistant Director*

Shrimati Himanshi Arya, *Committee Officer*

Shrimati Harshita Shankar, *Committee Officer*

LIST OF WITNESSES

1. Shri Keshav Desiraju, Additional Secretary, Ministry of Health and Family Welfare
 2. Prof. S.K. Sarin, Chairman, Board of Governors, Medical Council of India
 3. Shri Prasanna Raj, Additional Secretary, Medical Council of India
2. At the outset, the Chairman welcomed the members to the meeting of the Committee convened to hear the Additional Secretary, Ministry of Health and Family Welfare and Chairman, Board of Governors, Medical Council of India on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010.
3. The Committee, then, heard the views of the Additional Secretary, Ministry of Health and Family Welfare and Chairman, Board of Governors, Medical Council of India on the Foreign

Educational Institutions (Regulation of Entry and Operations) Bill, 2010 and their apprehensions on the impact of the legislation on the medical education sector. Members raised certain queries which were satisfactorily answered by the witnesses. The Committee decided to send a questionnaire to the Ministry of Health and Family Welfare and also to the Medical Council of India for written replies.

(The witnesses then withdrew)

4. The Committee, thereafter, decided to have further deliberations on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 and hear the views of the representatives of the foreign universities like Oxford University, London School of Economics, Stanford John Hennessey, Wharton University, Singapore on the said Bill in its next meeting. Further, the Committee also decided to hear the views of the representatives of the Kerala State Higher Education Council, Kamraj College, Kerala, A.R.S.D. College, University of Delhi and other experts on the same. Chairman also informed the members about the representation received from Prof. Kachroo regarding the menace of “Ragging” in colleges/universities. The Committee, therefore, decided to hear the views of Prof. Kachroo in the first instance and take up the issue as a subject, if required.

5. A Record of the proceedings was kept.

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

XIX
NINETEENTH MEETING

The Committee on Human Resource Development met at 3.00 P.M. on Wednesday, the 30th March, 2011 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

1. Shri Oscar Fernandes — *Chairman*
2. Shrimati Mohsina Kidwai
3. Shri Prakash Javadekar
4. Shri Janardhan Waghmare

LOK SABHA

5. Shri P.K. Biju
6. Shri Suresh Chanabasappa Angadi
7. Shri P.C. Gaddigoudar
8. Shri Prataprao Ganpatrao Jadhav
9. Capt. Jai Narain Prasad Nishad
10. Shri Tapas Paul
11. Shri Madhu Goud Yaskhi

SECRETARIAT

Shrimati Vandana Garg, *Additional Secretary*

Shri N.S. Walia, *Director*

Shri Arun Sharma, *Joint Director*

Shrimati Harshita Shankar, *Committee Officer*

LIST OF WITNESSES

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

1. Dr. K.N. Pannikar, Vice-Chairman, Kerala State Higher Education Council
2. Prof. A. James William, Kamraj College, Kerala
3. Prof. Vijendar Sharma, ARSD College, Delhi University
4. Shri Ashok Barman, General Secretary, All India Federation of University and College Teachers Organisations.

Anti Ragging in higher educational institutions

Prof. Raj Kachroo, Founder Trustee Aman Satya Kachroo Trust on Eradication of Ragging in Higher Educational Institution

2. At the outset, the Chairman welcomed the members to the meeting of the Committee convened to hear Dr. K.N. Pannikar, Vice-Chairman, Kerala State Higher Education Council, Prof. A. James William, Kamraj College, Kerala, Prof. Vijendar Sharma, ARSD College, Delhi University and Shri Ashok Barman, General Secretary, All India Federation of University and College Teachers Organisations on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 and Prof. Raj Kachroo, Founder Trustee Aman Satya Kachroo Trust on Eradication of Ragging in Higher Educational Institution.

3. The Committee, then, heard the views of Dr. Pannikar, Prof. A. James William, Prof. Vijender Sharma and Shri Ashok Barman on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 and on the impact of the legislation on the existing Higher Education Sector. Members raised certain queries which were satisfactorily answered by the witnesses. The Committee decided to send a questionnaire along with the queries of Dr. Janardhan Waghmare, M.P., Rajya Sabha and Shri P.K. Biju, M.P., Lok Sabha to all the witnesses for written replies.

(The witnesses then withdrew)

4. * * *

5. A Record of the proceedings was kept.

6. The Committee then adjourned at 4.50 P.M.

XX
TWENTIETH MEETING

The Committee on Human Resource Development met at 3.30 p.m. on Tuesday, the 19th April, 2011 in Main Committee Room, Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

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

LOK SABHA

9. Shri P. K. Biju
10. Shri Suresh Chanabasappa Angadi
11. Shri P.C. Gaddigoudar
12. Shri Prataprao Ganpatrao Jadhav
13. Capt. Jai Narain Prasad Nishad
14. Shri Jeetendrasingh Bundela
15. Shrimati J. Helen Davidson
16. Shri P.Kumar
17. Shri Prasanta Kumar Majumdar
18. Shri Brijbhushan Sharan Singh
19. Shri Ashok Tanwar
20. Shri Joseph Toppo
21. Dr. Vinay Kumar Pandey 'Vinnu'
22. Shri. P. Vishwanathan

SECRETARIAT

Shrimati Vandana Garg, *Additional Secretary*
Shri Arun Sharma, *Joint Director*
Shri Sanjay Singh, *Assistant Director*
Shrimati Himanshi Arya, *Committee Officer*

LIST OF WITNESSES**The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010****I. National Students' Union of India (NSUI)**

1. Shri Hibi Eden, National President
2. Shri Shah Nawaz Khan, National Secretary
3. Kumari Deepika Saraswat, National Secretary
4. Shri Bharat Kumar, National Secretary
5. Ms. Amrita Dhawan, National General Secretary
6. Shri Roji M. John, Member, CEC

II. Akhil Bhartiya Vidhyarathi Parishad (ABVP)

1. Shri Umesh Dutt, National General Secretary
2. Shri K.N. Raghunandan, National Jt. Org. Secretary
3. Shri N. Ravikumar, South-East Zone Org. Secretary
4. Shri Shreerang Kulkarni, National Secretary
5. Shri Vishnudutt Sharma, Central Zone Org. Secretary
6. Sushree Neetu Dabas, Secretary, DUSU
7. Shri Vivek Vishal, Jt. Secretary
8. Shri Sunil Ambedkar, National Org. Secretary

III. All India Students Federation (AISF)

1. Shri Abhay Taksal, General Secretary
2. Shri Paramjit Dilaban, National President

IV. Progressive Students Union (PSU)

1. Shri Rajib Banerjee, Secretary, Progressive Students Federation
2. Shri Sayantan Sarkar

V. Students, Federation Of India (SFI)

Shri Sivadasan, National Joint Secretary

2. At the outset, the Chairman welcomed the Members of the Committee to the meeting convened to hear the Students Organisations across India on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 with specific focus on the interests and concerns of the Students Unions on the Bill.

3. * * *

4. A verbatim record of the proceedings of the meeting was kept.

5. The Committee then adjourned at 5.45 P.M. to meet again on 20th April, 2011.

XXV
TWENTY FIFTH MEETING

The Committee on Human Resource Development met at 11.00 A.M. on Friday, the 3rd June, 2011 in Committee Room 'B', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

RAJYA SABHA

1. Shri Oscar Fernandes – *Chairman*
2. Shrimati Mohsina Kidwai
3. Dr. K. Keshva Rao
4. Shri M. Rama Jois
5. Shri Pramod Kureel

LOK SABHA

6. Shri P.K. Biju
7. Shri Jeetendrasingh Bundela
8. Shrimati J. Helen Davidson
9. Shri Prataprao Ganpatrao Jadhav
10. Shri P. Kumar
11. Shri Prasanta Kumar Majumdar
12. Capt. Jai Narain Prasad Nishad
13. Shri Sheesh Ram Ola
14. Shri Tapas Paul
15. Shri Brijbhushan Sharan Singh
16. Dr. Vinay Kumar Pandey 'Vinnu'
17. Shri Madhu Goud Yaskhi

SECRETARIAT

Shrimati Vandana Garg, *Additional Secretary*

Shri N.S. Walia, *Director*

Shri Arun Sharma, *Joint Director*

Shri Sanjay Singh, *Assistant Director*

Shrimati Himanshi Arya, *Committee Officer*

Shrimati Harshita Shankar, *Committee Officer*

LIST OF WITNESSES

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

Department of Higher Education

Ministry of Human Resource Development

1. Shrimati Vibha Puri Das, Secretary

2. Shri Sunil Kumar, Additional Secretary
3. Prof. S.S. Mantha, Chairman, AICTE
4. Dr. G.N. Raju, Joint Secretary & LC, Legislative Department
5. Shrimati Rashmi Chowdhary, Director, UGC

2. At the outset, the Chairman welcomed the Members to the meeting of the Committee convened to hear the Secretary, Department of Higher Education on various pertinent issues relating to the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010. The Chairman also informed that he had presented the 236th Report of the Committee on the Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010 to Hon'ble Chairman, Rajya Sabha on 30th May, 2011. With this, the Committee has in total, presented Reports on ten Bills out of the fourteen Bills referred to the Committee since April, 2010.

3. The Committee then reviewed the status of four Bills pending with it. Although a number of stakeholders on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 had appeared before the Committee, a need was felt for hearing witnesses having international experience. With regard to the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010 and the Protection of Women against Sexual Harassment at Workplace Bill, 2010, the Committee was in the process of holding deliberations with stakeholders. The Committee was yet to start its consideration of the Protection of Children from Sexual Offences Bill, 2011. The Committee, therefore, decided to seek extension of time for the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 and the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010 upto 31st July, 2011 and for the Protection of Women against Sexual Harassment at Workplace Bill, 2010 and the Protection of Children from Sexual Offences Bill, 2011 upto 31st August, 2011.

4. The Committee, then, heard the views of the Secretary, Department of Higher Education on certain issues relating to various provisions of the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010. Members raised certain queries which were replied to by the Secretary. The Committee decided to send a questionnaire on the various points raised by the Members during the meeting to the Department of Higher Education for clarifications.

5. * * *

6. Verbatim record of the proceedings was kept.

7. The meeting was adjourned at 1.30 P.M. to meet again on 20th June, 2011.

XXVI
TWENTY SIXTH MEETING

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

MEMBERS PRESENT

RAJYA SABHA

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

LOK SABHA

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

SECRETARIAT

Shrimati Vandana Garg, *Additional Secretary*

Shri N.S. Walia, *Director*

Shri Arun Sharma, *Joint Director*

Shri Sanjay Singh, *Assistant Director*

Shrimati Himanshi Arya, *Committee Officer*

Shrimati Harshita Shankar, *Committee Officer*

LIST OF WITNESSES**National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010.****I. National Board of Accreditation**

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

II. National Assessment and Accreditation Council

- (i) Professor, H.A. Ranganath, Director
- (ii) Shri B.S. Madhukar, Deputy Advisor

III. Ministry of Health and Family Welfare

- (i) Shri K. Chandramouli, Secretary
- (ii) Shri Keshav Desiraju, Additional Secretary
- (iii) Shri Debasish Panda, Joint Secretary

IV. Board of Governors, Medical Council of India

- (i) Prof. K.K. Talwar, Chairman

2. * * *

3. The Chairman informed the members that the Hon'ble Chairman, Rajya Sabha has acceded to their request for extension of time for the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 and the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010 till the 31st July, 2011 and for the Protection of Women from Sexual Harassment at Workplace Bill, 2010 and the Protection of Children from Sexual Offences Bill, 2011 till the 31st August, 2011.

4. * * *

5. * * *

(The witnesses then withdrew).

6. * * *

7. Verbatim record of the proceedings was kept.

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

XXVII
TWENTY SEVENTH MEETING

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

MEMBERS PRESENT

RAJYA SABHA

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

LOK SABHA

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

SECRETARIAT

Shrimati Vandana Garg, *Additional Secretary*

Shri N.S. Walia, *Director*

Shri Arun Sharma, *Joint Director*

Shri Sanjay Singh, *Assistant Director*

Shrimati Himanshi Arya, *Committee Officer*

Shrimati Harshita Shankar, *Committee Officer*

LIST OF WITNESSES

Witnesses on the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010

I. The Educational Promotion Society for India

- (i) Dr. G. Viswanathan, President, Founder & Chancellor, VIT University, VIT

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

II. Indian Council of Universities

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

III. Lingaya's University

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

2. * * *

The Chairman, further, informed the members about the second item on the agenda, i.e., the clause-by-clause consideration of the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010.

3. * * *

(The witnesses then withdrew).

4. Thereafter, the Committee took up the clause-by-clause consideration of the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010. The Committee directed the Secretariat to prepare a draft report on the same after discussing the important issues relating to the Bill.

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

XXX
THIRTIETH MEETING

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

MEMBERS PRESENT

RAJYA SABHA

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

LOK SABHA

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

SECRETARIAT

Shrimati Vandana Garg, *Additional Secretary*

Shri N.S. Walia, *Director*

Shri Arun Sharma, *Joint Director*

Shri Sanjay Singh, *Assistant Director*

Shrimati Himanshi Arya, *Committee Officer*

Shrimati Harshita Shankar, *Committee Officer*

2. At the outset, the Chairman welcomed the Members to the meeting of the Committee convened to consider and adopt the draft 237th Report on the Foreign Educational Institutions (Entry and Operations) Bill, 2010 and clause-by-clause consideration of the National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010.

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3. The Committee, thereafter, took up for consideration the draft 237th Report on the Foreign Educational Institutions (Entry and Operations) Bill, 2010. During consideration of the Report, some members gave suggestions, which the Chairman directed to be incorporated in the Report. S/Shri P.K. Biju, and Prasanta Kumar Majumdar, M.Ps. Lok Sabha and members of the Committee, expressing their reservation on some aspects of the Bill submitted their dissenting notes. The Chairman directed that the same may be annexed with the Report as Minutes of Dissent. Thereafter, the Committee adopted the Report.

4.

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

6. Verbatim record of the meeting was kept.

7. The Committee then adjourned at 4.30 P.M.

ANNEXURES

Bill No. 57 of 2010

THE FOREIGN EDUCATIONAL INSTITUTIONS
(REGULATION OF ENTRY AND OPERATIONS) BILL,
2010

A

BILL

to regulate entry and operation of foreign educational institutions imparting or intending to impart higher education (including technical education and medical education and award of degree, diploma and equivalent qualifications by such institutions) and for matter connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Foreign Educational Institutions (Regulation of Entry and Operations) Act, 2010.

Short title and commencement.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “accrediting agency”, in respect of a course of study offered in India by a foreign educational institution, means an agency or body approved,

recognised or authorised by the Council for Higher Education Accreditation or University Quality Agency or the Quality Assurance Authority, by whatever name called, established or incorporated under a law in the country of origin of the foreign educational institution or any other statutory authority in that country for the purpose of assessing, accrediting or assuring quality and standards of educational institutions;

(b) “Advisory Board” means the Advisory Board constituted under sub-section (2) of section 9;

(c) “Commission” means the University Grants Commission established under the University Grants Commission Act, 1956 or any other body or council or commission established under any Central Act for the time being in force to regulate the entry and operation of foreign educational institution;

3 of 1956.

(d) “fee” means all fees including tuition fee and development charges, by whatever name called, payable by the students enrolled for pursuing courses or programmes of study;

(e) “foreign educational institution” means—

(i) an institution established or incorporated outside India which has been offering educational services for at least twenty years in the country in which it had been established or incorporated; and

(ii) which offers educational services in India or proposes to offer courses leading to award of degree or diploma or certificate or any other award through conventional method including classroom teaching method not including distant mode in India independently or in collaboration, partnership or in a twinning arrangement with any educational institution situated in India;

(f) “foreign education provider” means a foreign educational institution notified by the Central Government, as a foreign education provider, on the recommendation of the Commission as an institution competent to impart education in India and to award degree, diploma or any other equivalent qualification (other than in the distance mode) at undergraduate, post-graduate, doctoral or post-doctoral level;

(g) “national research professor” means a person, who is an academic of high distinction, declared as such by the Central Government;

(h) “National Educational Tribunal” means the National Educational Tribunal established under the Educational Tribunals Act, 2010;

(i) “notification” means a notification published in the Official Gazette and the expression “notify” with its cognate meanings and grammatical variations shall be construed accordingly;

(j) “prescribed” means prescribed by rules made under this Act;

(k) “profession” means the profession of law, medicine and such other profession as may be notified by the Central Government from time to time;

‘(l) “Registrar” means the Secretary of the University Grants Commission or any other officer of the Commission notified, by the Central Government, as Registrar for the purposes of this Act;’

(m) “regulations” means regulations made by the Commission;

(n) “statutory authority”-

(i) in relation to higher education or technical education or practice of any profession means an authority established or incorporated under a Central Act to regulate standards of such higher education or technical education or practice of any profession;

(ii) in relation to medical education means the statutory authority established under

102 of 1956.

(A) the Indian Medical Council Act, 1956; or

59 of 1973.

(B) the Homoeopathy Central Council Act, 1973; or

48 of 1970.

(C) the Indian Medicine Central Council Act, 1970;

or

16 of 1948.

(D) the Dentists Act, 1948; or

8 of 1948.

(E) the Pharmacy Act, 1948; or

48 of 1947.

(F) the Indian Nursing Council Act, 1947;

25 of 1961.

(iii) in relation to legal education means the Bar Council of India constituted under section 4 of the Advocates Act, 1961;

52 of 1987.

(o) “technical education” means the technical education as defined in the All India Council of Technical Education Act, 1987;

(p) “twinning programme” means a programme whereby students enrolled with a foreign education provider complete their study partly in India and partly in any other educational institution situated outside India.

CHAPTER II

FOREIGN EDUCATIONAL INSTITUTIONS

3. No foreign educational institution shall admit any person as a student, or collect any fee from such person or its students in India for any course of study leading to the award of a degree or a diploma, by whatever name called, unless such institution has been notified by the Central Government as a foreign education provider under sub-section (8) of section 4.

Prohibition on admission, collection of fees, etc.

Foreign educational institutions to apply for being notified as foreign education providers.

4. (1) Any foreign educational institution which intends to impart education in India, shall submit an application, for being recognised and notified as a foreign education provider under this Act, to the Registrar and such application be duly endorsed by the concerned Embassy or High Commission in India of the country in which such institution is established or incorporated and has been offering educational services in that country:

Provided that a foreign educational institution providing educational services in India before the commencement of this Act, shall apply under this sub-section within a period of six months from the date of commencement of this Act and it shall cease to provide educational services in accordance with the provisions of this Act if its application for recognition and notifying as foreign education provider has been rejected.

(2) The form and manner in which an application under sub-section (1) shall be made and the other particulars, including payment of fee, shall be such as may be prescribed.

(3) Every application under sub-section (1) shall be accompanied by—

(a) the documents to the effect that such foreign educational institution—

(i) has been established or incorporated and has been offering educational services for at least twenty years under a law of the country in which such institution is established or incorporated and registered along with the status of its accreditation, wherever applicable, from the accrediting agency of that country; and

(ii) has adequate financial and other resources to conduct the course or courses of study in India;

(b) an undertaking to maintain a corpus fund of not less than fifty crore rupees or of such sum as may be notified, from time to time, by the Central Government in consultation with the statutory authority.

(4) The Registrar shall, on receipt of an application under sub-section (1), forward a copy thereof to the statutory authority for obtaining its recommendation as to the fitness of such institution to provide quality education in India:

Provided that the statutory authority shall make its recommendation to the Registrar within a period of three months from the date of receipt of the copy of the application under sub-section (4).

(5) The Registrar shall make such inquiries, in such manner, as may be specified by regulations, to ensure that the foreign educational institution meets the requirements to provide quality

education in India, as laid down under any law for the time being in force.

(6) The Registrar shall, as early as possible, and preferably within a period of six months from the date of receipt of the application under sub-section (1) by an foreign educational institution, submit his report on the fitness of such institution to provide quality education in India, along with such recommendations as may be made by the statutory authority, to the Commission.

(7) The Commission shall consider the report of the Registrar and recommendations of statutory authority, and recommend to the Central Government, within a period of thirty days from the date of receipt of such report and recommendations, as to the fitness of such institution proposed to be recognised and notified as a foreign education provider in India:

Provided that if the Commission is of the opinion that it shall not be in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or sensitivity of location of the foreign educational institution or any other such reason to permit a foreign educational institution to operate in India, either independently or in collaboration or partnership or in twinning arrangement with any educational institution situated in India, it shall submit a report to the Central Government in this regard, and the decision of the Central Government thereon shall be final.

(8) The Central Government may, having regard to the report of the Commission, within a period of thirty days from the date of receipt of such report, recognised and notify such foreign educational institution as a foreign education provider for the purpose of award of degree or diploma or both in India and immediately after such notification, notwithstanding anything contrary or otherwise in the University Grants Commission Act, 1956, the provisions of that Act shall apply to such institution as they apply to any university in India:

Provided that the Central Government may reject the application of a foreign educational institution for reasons to be recorded in writing and communicate the same to such institution within a period of thirty days from the date of receipt of report of the Commission.

5. (1) A foreign education provider shall ensure that the course or programme of study offered and imparted by it in India is, in conformity with the standards laid down by the statutory authority, and is of quality comparable, as to the curriculum, methods of imparting education and the faculty employed or engaged to impart education, to those offered by it to students enrolled in its main campus in the country in which such institution is established or incorporated.

Quality of programmes offered in India, use of income from corpus fund, and investment of surplus in generated revenue.

(2). A foreign education provider shall, out of the income received from the corpus fund, utilise not more than seventy-five per cent of such income for the purposes of development of its institution in India and the remaining of such unutilised income shall be deposited into the corpus fund.

(3) No part of the surplus in revenue generated in India by such Foreign Education Provider, after meeting all expenditure in regard to its operations in India, shall be invested for any purpose other than for the growth and development of the educational institutions established by it in India.

Mandatory publication of prospectus, its contents and its pricing.

6. (1) Every foreign education provider shall publish, before expiry of sixty days prior to the date of the commencement of admission to any of its courses or programmes of study, a prospectus containing the following for the purposes of informing those persons intending to seek admission and the general public, namely:—

(i) each component of the fee, deposits and other charges payable by students admitted to such institution for pursuing a course or programme of study, and the other terms and conditions of such payment;

(ii) the percentage of tuition fee and other charges refundable to a student admitted in such institution in case such student withdraws from such institution before or after completion of course or programme of study and the time within, and the manner in, which such refund shall be made to that student;

(iii) the number of seats approved by the statutory authority in respect of each course or programme of study for the academic year for which admission is proposed to be made;

(iv) the conditions of eligibility including the minimum and maximum age limit, if any, of persons for admission as a student in a particular course or programme of study, where so specified by the institution;

(v) the educational qualifications specified by the relevant statutory authority, or by the institution, where no such qualifying standards have been specified by any statutory authority;

(vi) the process of admission and selection of eligible candidates applying for such admission, including all relevant information in regard to the details of test or examination, if any, for selecting such candidates for admission to each course or programme of study and the amount of fee to be paid for the admission test;

(vii) details of the teaching faculty, including therein the educational qualifications and teaching experience of every member of its teaching faculty and also indicating therein whether such members are on regular basis or as visiting member;

(viii) the minimum pay and other emoluments payable for each category of teachers and other employees;

(ix) information in regard to physical and academic infrastructure and other facilities including hostel accommodation, library and hospital or industry wherein the practical training to be imparted to the students and in particular the facilities accessible by students on being admitted to the institution;

(x) broad outlines of the syllabus specified by the statutory authority or by the institution, as the case may be, for every course or programme of study, including the teaching hours, practical sessions and other assignments;

(xi) all relevant instructions in regard to maintaining the discipline by students within or outside the campus of the institution, and, in particular such discipline relating to the prohibition of ragging of any student or students and the consequences thereof and for violating the provisions of any regulation in this behalf made under the University Grants Commission Act, 1956 or any other law for the time being in force;

3 of 1956.

(xii) any such other information which may be prescribed:

Provided that the foreign education provider shall publish information referred to in items (i) to (xii) of this sub-section, on its website, and the attention of prospective students and the general public shall be drawn to such publication on the website through advertisements displayed prominently in the different newspapers and through other media:

Provided further that the foreign education provider may publish prospectus in accordance with this section at any time before the period of sixty days specified under this sub-section.

(2) Every foreign education provider shall fix the price of each printed copy of the prospectus, being not more than the reasonable cost of its publication and distribution and no profit be made out of the publication, distribution or sale of prospectus.

7. (1) If the Commission is satisfied that the foreign education provider has violated any provision of this Act or the University Grants Commission Act, 1956 or any other law for the time being in force or rules, regulations or orders made or notifications issued thereunder, it may, after giving a reasonable opportunity of being heard to the foreign education provider, recommend to the Central Government for withdrawal or recognition and rescission of the notification issued under sub-section (8) of section 4 in respect of such foreign education provider.

3 of 1956.

Withdrawal and rescission of notification of foreign education provider.

(2) Where the Central Government is satisfied that the recognition of the foreign education provider, referred to in sub-section (1), is to be withdrawn and notification issued under sub-section (8) of section 4 in respect of such foreign education provider to be rescinded, it shall require the Commission to intimate—

(i) the management of the foreign education provider;

(ii) the teachers employed by the foreign education provider; and

(iii) the student councilor or any other body by whatever name called, and the parents of the students enrolled by the foreign education provider,

by a notice, in such manner as may be prescribed, of the grounds for withdrawal of recognition and rescission of the notification issued under sub-section (8) of section 4 in respect of such foreign education provider.

(3) The management or teachers or students councilor parents of students of such foreign education provider may, within a period of thirty days from date of receipt of notice under sub-section (2), represent to the Central Government against the proposed rescission of the notification in respect of such foreign education provider.

(4) If the Central Government, after considering the representations, if any, received under sub-section (3), is satisfied, it may withdraw the recognition and rescind the notification issued under sub-section (8) of section 4 in respect of the foreign education provider referred to in sub-section (1).

(5) On withdrawal of the recognition and rescission of the notification issued under sub-section (8) of section 4 in respect of the foreign education provider, the foreign educational institution shall cease to be a foreign education provider on and from the last date of the academic session following the previous academic session in which the notice under sub-section (2) was issued by the Commission.

(6) On withdrawal of recognition and rescission of the notification issued under sub-section (8) of section 4 in respect of the foreign education provider, the Central Government shall, as soon as may be, take such measures as may be necessary to provide alternative and appropriate educational facilities for those students who were enrolled by such foreign education provider.

(7) The Central Government may, in accordance with the relevant law for the time being in force, attach the corpus fund and such other properties of the foreign education provider referred to in sub-section (4), as it may deem fit to make payments to any person employed in India by such foreign education provider, and for making arrangements of appropriate educational facilities for students referred to in sub-section (6).

CHAPTER III

PENALTIES

3 of 1956. **8. (1)** Notwithstanding anything contained in the University Grants Commission Act, 1956, any person who, being associated with an educational institution or a foreign educational institution not being a foreign education provider which has not been recognised and notified under sub-section (8) of section 4 or whose recognition and notification has been withdrawn—

(a) offers or gives admission to any person as student or collects fee or awards any degree, diploma or any other equivalent qualification in violation of the provisions of section 3; or

(b) publishes or releases any advertisement which is misleading or gives wrongful information in the print, electronic or any other media or fails to publish disclosures as required under section 13,

shall be liable to a penalty which shall not be less than ten lakh rupees but which may extend to fifty lakh rupees in addition to refund of the fee, so collected, to the persons from whom it was collected and confiscation of any gains made out of it.

3 of 1956. **(2)** Any foreign education provider, which has been recognised and notified under sub-section (8) of section 4, who contravenes any provision of section 5 or section 6 or any provision of the University Grants Commission Act, 1956, shall be liable to a penalty which shall not be less than ten lakh rupees but which may extend to fifty lakh rupees and the forfeiture of the corpus fund referred to in clause (b) of sub-section (4) of section 4 in whole or part thereof.

(3) All sums realised by way of penalties or the gains confiscated under this Chapter or the amount of corpus fund forfeited shall be credited to the Consolidated Fund of India.

CHAPTER IV

MISCELLANEOUS

9. (1) Notwithstanding anything contained in this Act, the Central Government may, by notification, on the recommendation of the Advisory Board constituted under sub-section (2), having regard to the reputation and international standing of foreign educational institution and such other criteria as may be prescribed, exempt such institution from operation of any of the foregoing provisions, other than sub-section (3) of section 5 and section 8.

Power of
Central
Government to
exempt.

(2) For the purpose of sub-section (1), the Central Government shall, by notification, constitute an Advisory Board consisting of—

(a) three distinguished persons from the field of academics, who are, or may have been at any time, declared as a national research professor, one of whom shall be designated as the Chairperson of the Advisory Board;

(b) Chairman of the Commission, *ex officio*;

(c) Chairman of one of the statutory authorities, other than the Commission, by rotation.

(3) The Advisory Board shall meet at such times and places, and observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meeting) as may be prescribed.

Power of Central Government to issue directions.

10. (1) Without prejudice to the foregoing provisions of this Act, the Commission, shall, in exercise of its powers or performance of its functions under this Act, be bound by such directions on question of policy as the Central Government may give in writing to it, from time to time:

Provided that the Commission shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Adjudication of penalty.

11. Save as otherwise provided in this Act, all the matters (including the penalties leviable under this Act) shall be adjudicated by the National Educational Tribunal.

Application of other laws not barred.

12. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Foreign educational institution conducting certificate courses to report its activities to Commission.

13. (1) Notwithstanding anything contained in this Act, a foreign educational institution (not being a foreign education provider notified under section 4), which is imparting education leading to award of certificate or any other qualification not being a degree or diploma or equivalent qualifications, shall furnish a report to the Commission about its activities, in such manner as may be specified by regulations.

(2) The foreign educational institution referred to in sub-section (1), shall publish information on its website and draw the attention of prospective students and the general public to such publication on the website through advertisements displayed prominently in the different newspapers and through other media, indicating, *inter alia*, the following, namely:—

(a) the details of course or programme of study leading to the award of certificate;

(b) the details of enrolment of students;

(c) the details of infrastructure available with it;

(d) details of the place wherefrom such institution is operating in India;

(e) whether operating on its own or through collaboration or partnership or twinning arrangement with any Indian educational institution and the details thereof;

(f) such other information as may be considered necessary by the Commission.

14. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner in which an application may be made and other particulars including payment of fee under sub-section (2) of section 4;

(b) the other information required to be published in the prospectus by a foreign education provider under clause (xii) of sub-section (1) of section 6;

(c) the manner in which notice shall be given under sub-section (2) of section 7;

(d) the criteria for granting exemption to foreign educational institution under sub-section (1) of section 9;

(e) the time and place at which the Advisory Board shall meet and rules of procedure in regard to the transaction of business at its meetings (including quorum at such meeting) to be observed by it under sub-section (3) of section 9;

(f) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules by the Central Government.

15. (1) The Commission may, by notification, make regulations, consistent with this Act and the rules made thereunder to carry out the provisions of this Act. Power to make regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the inquiries and the manner of making such inquiries by the Registrar under sub-section (5) of section 4;

(b) the manner in which a foreign educational institution shall report of its activities under sub-section (1) of section 13;

(c) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

Laying of
rules,
regulations
and
notifications.

16. Every rule and every regulation made and every notification issued under this Act shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or notification, or both Houses agree that the rule or regulation or notification should not be made or issued, the rule or regulation or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification.

Power to
remove
difficulties.

17. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary, for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

A number of Foreign Educational Institutions have been operating in the country and some of them may be resorting to various malpractices to allure and attract students. There is no comprehensive and effective policy for regulation on the operations of all the foreign educational institutions in the country. Due to lack of policy or regulatory regime it has been very difficult to make meaningful assessment of the operations of the foreign educational institutions and absence of such meaningful assessment has given rise to chances of adoption of various unfair practices besides commercialisation.

2. At present, only the All India Council for Technical Education has notified regulations for entry and operation of foreign universities and institutions imparting technical education in India which apply only to such institutions which are providing technical education covered by the All India Council for Technical Education Act, 1987.

3. The enactment of a legislation regulating entry and operation of all the foreign educational institutions is necessary to maintain the standards of higher education within the country as well to protect the interest of the students and in public interest. The object of the proposed legislation is to regulate entry and operation of foreign educational institutions imparting or intending to impart higher education or technical education or practice of any profession in India (including award of degree, diploma and equivalent qualifications by such institutions) and for matters connected therewith or incidental thereto.

4. The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010, *inter alia*, provides—

(a) that the foreign educational institution shall,—

(i) not impart education in India unless it is recognised and notified by the Central Government as a foreign education provider under the proposed legislation;

(ii) offer and impart education which is in conformity with the standards laid down by the statutory authority, and is of quality comparable, as to the curriculum, methods of imparting education and the faculty employed or engaged to impart education, to those offered by it to students enrolled in its main campus in the country in which such institution is established or incorporated;

(iii) maintenance of the corpus fund of not less than fifty crore rupees or such sum as may be notified from time to time by the Central Government;

(b) that the Central Government may,—

(i) refuse to recognise and notify a foreign educational institution as foreign education provider if it is not in the interest of sovereignty, integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or sensitivity of location of the foreign educational institutions;

(ii) withdraw the recognition and rescind the notification of a foreign education provider on the grounds of violation of the provisions of the proposed legislation or the University Grants Commission Act, 1956 or any other law for the time being in force and on such withdrawal or recession of notification, the Central Government shall make necessary alternative arrangements;

(c) that any person who, being associated with an educational institution or a foreign educational institution not being a foreign education provider which has not been recognised and notified under the proposed legislation, offer or gives admission to any person as student or collects fee or awards any degree, diploma or publishes or releases any advertisement which is misleading or gives wrongful information or fails to publish disclosures as required under the proposed legislation shall be liable to a penalty of not less than ten lakh rupees which may extend to fifty lakh rupees in addition to refund of the fee and confiscation of any gains made out of it;

(d) that any foreign education provider, which has been recognised and notified under the proposed legislation, who contravenes the provisions of clause 5 of the proposed legislation relating to quality of programmes offered in India, use of income from corpus fund, and investment of surplus in generated revenue or the provisions of the University Grants Commission Act, 1956 shall be liable to a penalty of not less than ten lakh rupees which may extend to fifty lakh rupees and the forfeiture of the corpus fund in whole or part thereof;

(e) for adjudication of all matters (including penalties leviable) under the proposed legislation by the National Educational Tribunal to be established under the Educational Tribunals Bill, 2010 proposed to be enacted.

5. The Notes on clauses explain in detail the various provisions contained in the Bill.

6. The Bill seeks to achieve the above objectives.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make, by notification in the Official Gazette, rules for carrying out the provisions of the proposed legislation. Sub-clause (2) specifies the matters in respect of which such rules may be made. These matters, *inter alia*, include matters: (a) the form and manner in which an application may be made and other particulars including payment of fee under sub-clause (2) of clause 4; (b) the other information required to be published in the prospectus by a foreign education provider under clause (xii) of sub-clause (1) of clause 6; (c) the manner in which notice shall be given under sub-clause (2) of clause 7; (d) the criteria for granting exemption to foreign educational institution under sub-clause (1) of clause 9; (e) the time and place at which the Advisory Board shall meet and rules of procedure in regard to the transaction of business at its meetings (including quorum at such meeting) to be observed by it under sub-clause (3) of clause 9; and (f) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules by the Central Government.

2. Clause 15 of the Bill empowers the Commission (University Grants Commission) to make, by notification in the Official Gazette, regulations for carrying out the provisions of the proposed legislation. Sub-clause (2) specifies the matters in respect of which such regulations may be made. These matters, *inter alia*, include: (a) the inquiries and the manner of making such inquiries by the Registrar under sub-clause (5) of clause 4; (b) the manner in which a foreign educational institution shall report of its activities under sub-clause (1) of clause 13; and (c) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

3. The rules made by the Central Government under clause 14 and regulations made by the Commission under clause 15 of the Bill, shall be laid, as soon as they are made, before both House of Parliament under clause 16 of the Bill.

4. The matters in respect of which rules and regulations may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative powers is, therefore, of normal character.

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to regulate entry and operation of foreign educational institutions imparting or intending to impart higher education (including technical education and medical education and award of degree, diploma and equivalent qualifications by such institutions) and for matters connected therewith or incidental thereto.

(Shri Kapil Sibal, Minister of Human Resource Development)

