Chapter – IV
Parliamentary Committees and Legislative Process

Parliamentary Standing Committees play significant role in legislative process. It is more so in case of the Departmentally Related Standing Committees. Among the four main functions of the Departmentally Related Standing Committees (DRSCs), one of the most important functions assigned to them is the examination of Bills referred to the Committee and report thereon\(^1\). Though the role and power of the Departmentally Related Standing Committees (DRSCs) is limited to observation and recommendation, the importance of these Committees cannot be undermined in the whole process of legislation. Supposedly these Committees help in offloading the part of the responsibilities of the Parliament. Given the amount of work of the Parliament and the context of its working, in-depth examination of the proposed Bill becomes difficult. It is in this context that the role of the DRSCs becomes important. In-depth examination of Bills is made possible through the DRSCs. Needless to mention the Parliament is the competent body to make, amend or repeal any federal legislation. However, all legislative proposals have to be followed by requisite process and procedure. The DRSCs help the Parliament with their informed observations and recommendations coming out of in-depth examination of legislative proposals.

It is in this context that the present chapter critically examines the role and contributions of the DRSCs in the process of legislation. The Departmentally
Related Standing Committee on Human Resource Development has been taken as a case for critical analysis of the role and evaluating the work of the Committee in legislative process. Evaluation of the role and working of the DRSCs has been done on the basis of four parameters- i) attendance of members of the Committee; ii) number of the meetings of the committee on specific Bill; iii) number of recommendations made, and iv) number of recommendations accepted and incorporated in the concerned Acts. For in-depth analysis, Reports on five Bills referred to the Committee have been critically examined. The five bills include: i) The Commissions for Protection of Child Rights Bill, 2005; ii) The National Institutions of Technology Bill, 2006; iii) The Central Educational Institutions (Reservation in Admission) Bill, 2006; iv) The Central University Bill, 2008; and v) The Right of Children to Free and Compulsory Education Bill, 2008. The Acts corresponding to the referred Bills have been taken as point of reference to ascertain as to what extent the recommendations of the Committee have been incorporated in the subsequent Acts. The first parameter of evaluation relating to attendance of the members has been applied to determine the seriousness of the members towards the works of the Committee. Though it may not be sufficient basis of determining the seriousness, it is one of the most important indicators of the working of the Committee. Similarly, the second parameter relating to the number of meetings of the Committee to discuss different aspects of the Bill under examination indicates the functioning of the Committee. The frequency of meetings is a significant parameter in this regard. Third parameter has been used to find out the substantive contribution of the committee in terms content, deliberation and recommendation of
the Committee on the Bill. Fourth parameter attempts to ascertain as to what extent recommendations of the Committee are incorporated in the Act. This could be one of the indicators of effectiveness of Committee. Though none of the parameters can be absolute basis of determining the actual working and effectiveness, these provide entry point for in-depth examination and evaluation.

But before delving into the specific aspect of evaluation of the working of the DRSCs in legislative process, it is equally important to examine as how the Parliament and its DRSCs are involved in the legislative process.

**Legislative Process**

The primary function of Parliament is to make laws, amend them or repeal them.

The process of law making or the legislative process, in relation to Parliament may be defined as the process by which a legislative proposal is brought before it and transformed into the law of the land. All legislative proposals are brought before Parliament in the form of Bills. A Bill is a statute in the draft form and it can not become law unless it has received the approval of both the Houses of Parliament and the assent of the President of India.

For this transformation, draft Bill has to pass through different stages. The process of law making begins with introduction of the Bill in the House either in Rajya Sabha or in Lok Sabha with its circulation to the members at least two days before its introduction.

After the introduction of the Bill in the House, it is published in the Gazette of India. The introduction stage is known as First Reading. After the First Reading, the Bills are referred to the Departmentally Related Standing Committee, concerned for their consideration. It is at this stage that the role of DRSCs becomes important. As per
The provision DRSCs are loaded with responsibility of in-depth examination of the proposed Bill. After due deliberation the Committee makes recommendation which may or may not be accepted by the House. The rules setting out the scope and function of the Standing Committees provides as;

(b) To examine such Bills pertaining to the concerned Ministries/Departments as are referred to the Committee by the Chairman Rajya Sabha or the Speaker Lok Sabha as the case may be, and make reports thereon.

As per prevailing practice, normally all Government Bills, except Bills to replace Ordinances, Bills repealing obsolete laws, Appropriation Bills, Finance Bills, and Bills of Technical or trivial nature are referred to the concerned D.R.S.Cs for examination and report thereon.

The scope of examination of the Bills by the Committee is delineated under the Rule 331 (H) as follows:

a) The Committee considers the general principles and clauses of the Bills.
b) The Committee considers only such Bills introduced in either of the Houses as are referred to them by the Chairman Rajya Sabha or the Speaker Lok Sabha.
c) Committee is to make report on the Bills in the given time.

The Committee starts functioning by first calling the background material from the Ministry/Department concerned, which covers;

a) Historical background of the Bill inter-alia the necessity of such a legislation, its aims and objectives,
b) High Court or Supreme Court Judgments, if any, in respect of the clauses/provisions contained in the Bill,
c) Report(s) of the Committee(s) if any appointed by the Government in the past which have suggested the enactment of such a legislation.
d) Up to date list of experts, interest groups, associations and other non-governmental organizations knowledgeable on the subject.
The Committee may hold wide consultations and discussions with selected experts, NGOs, individuals through written submission and also through oral evidences if required. Official evidence is also needed before the Committee, generally by the Secretary of the concerned department. The recommendations of the Committee have persuasive value and are treated as considered advice by the Government. In case the Government accepts any of the recommendations, it may bring forward official amendments at the consideration stage of the Bill or may withdraw the Bill and bring forward a new comprehensive Bill after incorporating such of the recommendations as are acceptable to the Government.

After the report of the Committee is presented to the House, the Bill reaches to the consideration stage. This stage is named as Second Reading. It consists of clause by clause consideration of the Bill as introduced in the House or as reported by the Committee. Discussion takes placed on each clauses of the Bill and amendments can be moved at this stage. Amendments become part of the Bill, if they are accepted by a majority of Members present and voting.

The Third Reading refers to the discussion on the motion that the Bill or the Bill as amended is passed. After a Bill has been passed by the House, it is transmitted to the other House, Rajya Sabha or Lok Sabha for their concurrence. After the Bill has been agreed by both the Houses, it is submitted to the President for his assent. After receiving the assent of the President, it becomes the ‘Act’ and the Act gets notified in the Gazette of India.
The above exposition underlines the role and importance of DRSCs in the legislative process. In-depth examination and informed deliberation on different issues relating to the proposed Bill in the Committee can have far reaching implications in the whole legislative process. The question, however, remains as to what extent the DRSCs play effective role in the legislative process. The ensuing sections attempt to answer the question in the light of the actual working of the Committee. Reports of the Committee are the major source of information and reference for ascertaining the status and working of the Committee. In-depth analysis of the Reports help in finding out the working of the Committee with reference to two interrelated aspects - one in terms of active engagement of the members in the business of the Committee relating to the legislative process, and another in terms of their effectiveness in shaping and enriching content of the Act through their recommendations based on examination, consultations and deliberation on the Bill referred to the Committee.

**Meetings of the Committee and Attendance of the Members**

A critical analysis of select Bills referred to the Departmentally Related Standing Committee on Human Resource Development provides important insights into the working and effectiveness of the Committee in the process of legislation. One set of indicator of the working of DRSCs is the number of meetings held to transact the business of the Committee on specific Bill and attendance of the members therein. The Reports of the Committee on five Bills selected for the study and analysis provide information on number of meetings and attendance of the members presented in the Table-1 given below.
## Table-1

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of the Bill</th>
<th>No. of meetings of the Committee</th>
<th>No. of members nominated on the committee</th>
<th>No. of members present</th>
<th>Percentage of attendance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Right of Children to Free and Compulsory Education Bill, 2008</td>
<td>1&lt;sup&gt;st&lt;/sup&gt; meeting 31 2&lt;sup&gt;nd&lt;/sup&gt; meeting 31</td>
<td>15 19</td>
<td>48.38 61.29</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>The Central Educational Institutions (Reservation in Admission) Bill 2006</td>
<td>1&lt;sup&gt;st&lt;/sup&gt; meeting 31 2&lt;sup&gt;nd&lt;/sup&gt; meeting 31 3&lt;sup&gt;rd&lt;/sup&gt; meeting 31 4&lt;sup&gt;th&lt;/sup&gt; meeting 31</td>
<td>25 21 20 23</td>
<td>80.64 67.74 64.51 74.19</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>The Commission for Protection of Child Rights Bill, 2005</td>
<td>1&lt;sup&gt;st&lt;/sup&gt; meeting 31 2&lt;sup&gt;nd&lt;/sup&gt; meeting 31 3&lt;sup&gt;rd&lt;/sup&gt; meeting 31 4&lt;sup&gt;th&lt;/sup&gt; meeting 31 5&lt;sup&gt;th&lt;/sup&gt; meeting 31 6&lt;sup&gt;th&lt;/sup&gt; meeting 31</td>
<td>18 21 26 22 15 11</td>
<td>58.06 67.74 83.87 70.96 48.38 35.48</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>The Central Universities Bill, 2008</td>
<td>1&lt;sup&gt;st&lt;/sup&gt; meeting 31 2&lt;sup&gt;nd&lt;/sup&gt; meeting 31</td>
<td>17 15</td>
<td>54.83 48.38</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>National Institute of Technology Bill, 2006</td>
<td>1&lt;sup&gt;st&lt;/sup&gt; meeting 31 2&lt;sup&gt;nd&lt;/sup&gt; meeting 31</td>
<td>19 24</td>
<td>61.29 77.41</td>
<td></td>
</tr>
</tbody>
</table>

**Source:** The figures presented above have been quelled & calculated from the Reports of the Committee on Bills referred to them.  

It is evident from the above table that the numbers of meetings to transact the business of the Committee on specific Bill are not very encouraging. One of the major points in relation to the functioning of the Committee is inadequate number of meetings held. A cursory glance at the Reports of the DRSCs other than the selected ones for study indicates this aspect. The number of meetings to transact the business of the Committee is inextricably linked to the effective functioning of the
Committee. The above table shows that in the case of the Commission for Protection of Child Rights Bill, 2005 the number of meetings held is, of course; significantly high. This is, however, not always the case. It hardly needs additional emphasis that in-depth examination and serious deliberations cannot be done merely in one or two meetings. Exception could be there wherein the well informed members may meaningfully deliberate on an issue and arrive at consensus within a very short span of meeting in the Committee. Given the context and the pattern of membership of the Committees it is very unlikely to transact business of the Committee, especially relating to legislative proposals, within a very brief meeting of the Committee- both in terms of number and duration of the meetings.

So far as the attendance of the members in meetings of the Committee is concern, this is again an issue of concern. Generally this is a held view that the members of the Committee do not attend the meetings of the Committee regularly. In the present case the attendance of members in the meetings is not alarming. On average, the attendance of the members is not below sixty percent. Out of sixteen meetings held on different bills, it is only one meeting in which the attendance is dismally low amounting to only thirty five percent (see the Table-1). In three meetings the attendance is just below fifty percent. In other cases the attendance percentage appears to be reasonable. In this regard it needs to be reiterated that attendance of the members and number of meetings are important indicative parameters of the state of working of the Committee but not the sufficient basis of adjudging the actual working and effectiveness of the Committee.
Recommendations of the Committee on Legislative Proposals

As pointed out earlier one of the major functions of the DRSCs is to make recommendations on the Bills referred to them for critical examination and provide Report thereon. In this regard, it is important to note that recommendations of the Committee are taken as considered advice on the subject. Some of the observations and recommendations of the Committee are accepted by the House. In case of acceptance they become the part of the Act after incorporation. This functional responsibility of the Committee with regard to legislative proposals is quite important. A cursory glance over the recommendations of the Committee over the years of their functioning shows that the acceptance of the recommendations of the Committees has not been very encouraging. There could be many reasons for non acceptance of particular recommendation but one of the most important reasons of non-acceptance is the issue of constitutionality and legality of recommendations. This becomes more apparent once we enter into deeper analysis of the selected bills in subsequent section. The table-2 provides a quick view on the recommendations and their acceptance and non-acceptance.

Table-2

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Name of the Bill</th>
<th>No. of Recommendations made by the Committee</th>
<th>No. of recommendations accepted &amp; incorporated in Act</th>
<th>No. of recommendations not accepted</th>
<th>% of recommendation accepted</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Right of Children to Free and Compulsory Education Bill, 2008</td>
<td>15</td>
<td>4</td>
<td>11</td>
<td>26.66</td>
</tr>
</tbody>
</table>
It is evident from the above Table-2 that the Committee had made large number of recommendations on the bills referred to them, but the acceptance of the recommendations have been dismally low. In all the selected cases for the study, the acceptance percentage in no case crossed 31%. In case of The Central Educational Institutions (Reservation in Admission) Bill 2006, the Committee made 11 recommendations. Out 11 recommendations only 1 was accepted and incorporated in the Act. In other cases also, there is gross mismatch between the number of recommendations made by the Committee and number of recommendations accepted by the government. In the given situation of mismatch one may be tempted to conclude that the role of the Committee in the case of legislative process in India is insignificant. But this could be hurriedly arrived conclusion. A more nuanced and deeper understanding of the Committee’s role is called for. The role and working of the Committee cannot be adjudged exclusively on the basis of acceptance of
recommendations. It is also important to examine as to what extent the deliberations in the Committee is meaningful. The ensuing section makes attempt in this direction.

The five selected bills have been critically examined taking into account the following components: the intent and genesis of the bill, consultation process followed by the committee, and recommendations made by the Committee. Here attempt is also made to examine as to what extent the recommendations of the Committee have been accepted and incorporated in the Act and not accepted. If some recommendations are not accepted what could be the possible reasons. Whether non-acceptance is to be construed as undermining the importance of the Committee or are there any technical snags that have caused non-acceptance. For critical examination of the recommendation the five consequential Acts corresponding to five selected bills have been taken for the study. Each of the bills and subsequent Acts has been examined separately for the reason of clarity and sharp focus as per the details given hereunder:

1. **The Commissions for Protection of Child Rights Bill 2005**

The above mentioned Bill was introduced in the Rajya Sabha on 2nd May, 2005 and was referred by the Chairman Rajya Sabha under Rule 270 to the Committee for examination and report within three months.\(^1\) The Commissions for Protection of Child Rights Bill 2005 was brought to provide for the constitution of National Commission and State Commissions for Protection of Child Rights.

**Intent and Genesis of the Bill**

The Commission for Protection of Child Rights Bill, 2005 sought to provide for the constitution of a National Commission and State Commissions for Protection of Child Rights.
Child Rights and Children Courts for providing speedy trial of offences against children or violation of Child Rights and for matters connected therewith or included thereto. The genesis of the Bill can be inferred from the Report which attempts to outline the context. Report locates the genesis in the specific context of India. The Constitution of India guarantees several rights to the children including equality before law, free and compulsory education to all children between six to fourteen years, prohibiting of trafficking and forced labour by children and employment of children below the age of fourteen years in factories, mines or hazardous occupations. The constitution enables the state to make special provisions for children and directs that the policy of state shall be such that their tender age was not abused.  

Moreover, the Government of India is a party to United Nations Convention on the Rights of the Child which requires signatory states to realign their child laws with a view to make their legal, judicial and administrative systems child-friendly as well as sensitive to the interests of the child.

Indeed, various child related indicators present a very dismal scenario, despite a number of child related laws and schemes being implemented/administered by various departments. In view of the national as well as international developments, the National Commissions for Protection of Child Rights Bill 2005 was required to be brought before Parliament.

**Consultation Process**

The Committee followed the process of wider consultation. The Committee invited suggestions/views/comments in writing from individuals/organizations/institutions on the subject. The Committee received twenty eight memorandums on the Bill. It
also heard the witness on the subject. In this regard, it is important to note that the consultation process of the Committee is an important mechanism for eliciting wider view, opinion and suggestion on legislative proposals but in terms of outreach it is still limited. In fact the consultation process of the Committee may be considered as important mechanism for participation in the democratic decision making on crucial legislative proposals for individual, organizations and institution which is otherwise not possible for individuals or organization to participate in the process in the House of the Parliament.

**Number of Meetings and Attendance:** The Committee considered the Bill in total 6 (six) sittings and presented their report on 18th August, 2005 to the Parliament. Attendance of the members in the meetings has been as follows:

<table>
<thead>
<tr>
<th>Meeting</th>
<th>Members</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st meeting</td>
<td>18</td>
<td>58.06%</td>
</tr>
<tr>
<td>2nd meeting</td>
<td>21</td>
<td>67.74%</td>
</tr>
<tr>
<td>3rd meeting</td>
<td>26</td>
<td>83.87%</td>
</tr>
<tr>
<td>4th meeting</td>
<td>22</td>
<td>70.96%</td>
</tr>
<tr>
<td>5th meeting</td>
<td>15</td>
<td>48.38%</td>
</tr>
<tr>
<td>6th meeting</td>
<td>11</td>
<td>35.48%</td>
</tr>
</tbody>
</table>

The attendance of the members was good up to the fourth meeting. In terms of percentage, the first four meetings show significant percentage of members attending meetings. But it shows a sharp decline in the 5th & the final sitting in which report was approved.

**Recommendations of the Committee and their Acceptance**

The committee made twenty two recommendations out of which the following were accepted and incorporated in the Act.

**Recommendations which were Accepted and Incorporated in the Act**
i) The committee recommended that in sub-clause (2) (b) of clause (3) should provide that out of six members appointed to the Commission at least two should be women.\(^{15}\)

This recommendation was accepted and the words “six members, out of which at least two shall be women” was incorporated in Act.\(^{16}\)

ii) The Committee recommended on clause 5(1) pertaining to term of the office and conditions of service that a specific period should be fixed for the term of office and the members and the Chairman should not be allowed to function for more than two terms.\(^{17}\)

These recommendations were accepted and the words “for a term of three years” and a proviso saying that no Chairperson or members shall hold office for more than two terms were incorporated.\(^{18}\)

iii) Recommendation on Clause 8 (2) is regarding filling of casual vacancy in the office of Chairperson or its member. The clause in the Bill did not provide for any time limit for filling up such vacancy. The Committee recommended “such vacancy shall be filled within 90 days”.\(^{19}\)

This was accepted and the words “within ninety days” were incorporated in the clause of the Act.\(^{20}\)

iv) The sub-clause (1) of the Clause 10 provided in the Bill that Commission shall meet at its office at least once in six month, the Committee found it inadequate and recommended that the Commission shall meet regularly at its office at such time as may be fixed by the chairperson “but in any case at least once in three months”\(^{21}\)

The recommendation of the committee was accepted by reframing the wordings as “but three months shall not intervene between its last and the next meeting”.\(^{22}\)
v) The committee made a substantial recommendation on Clause 13 and suggested certain changes in 13 (1) (c), 13 (1) (d) and 13 (i) (i). The committee’s recommendation is reproduced

(e) examine all factors that violate and inhibit the enjoyment of rights of children and recommends appropriate remedial measures.

(f) look into the matter related to children in need of special care and protection including children in distress, marginalized and disadvantaged children, children in conflict with law, juveniles, children without family, children of prisoners and also children affected by terrorism, communal violence, riots, natural disasters, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution and recommends appropriate remedial measures.

The committee also recommended to add “violation and” after “deprivation” in clause 13 (i) (i).

The government accepted the recommendation of the committee and reframed the clause 13 (I) (c) and 13 (I) (d) and added 13 (I) (e) incorporating all the suggestions of the committee in the Act as following

13 (I) (c) – inquire into violation of child rights and recommend initiation of proceedings in such cases;

(d) – examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disaster, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution and recommend appropriate remedial measures;

(e) look into the matters relating to children in need of special care and protection including children in distress, marginalized and disadvantaged children, children in conflict with law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures;
The clause 13(i) (i) was also amended by rewording it as “deprivation and violation of child rights” and incorporated in the Act.  

vi) On Clause 16(2), the committee recommended that words “within a period of one year from the date of receipt of such report from the commission” may be added at the end of sub-clause (2) of clause (16) of the Bill which provided for the laying of the Report of the Commission before the Parliament or State Legislature.

The recommendation was accepted and incorporated on the Act.

vii) Regarding clause 17 of the Bill which dealt with the constitution, appointment and removal etc. pertaining to the State Commission, the Committee recommended that their recommendations pertaining to the National Commission should be incorporated in the corresponding provisions of the State Commission also. Secondly, they also recommended that State Commissions should be made mandatory for every State Government/UT.

The recommendation of including at least 2 women members was also accepted as in case of National Commission and incorporated in clause 17 (2) (b) of the Act.

Other Recommendations which were not Accepted

i) On clause 4 pertaining to the appointment of the Chairperson and members of the Commission, the committee recommended that these appointments should be made by the President by warrant under his hand and seal and certainly not by the central government. Such appointments shall be made after obtaining the recommendations of a committee consisting of; Prime Minister as Chairperson and the Speaker Lok Sabha, Minister of Human Resource Development, Minister, Social Justice and Empowerment, Leader of opposition, Lok Sabha, Leader of opposition Rajya Sabha, and the Deputy Chairman Rajya Sabha as members.
The recommendation was not accepted and the existing provision remained in the Act.

ii) The recommendation on clause 5 (2) is consequential to the recommendation on clause 4, saying that in sub-clause 5(2) the words “Central Government” may be replaced by “President of India.”

As such, the recommendation could not be accepted.

iii) On clause 7(1) and 7(2) of the Bill pertaining to the removal of the Chairperson or any member, the committee recommended that –

a) The Chairperson or any Member may be removed from his office by an order of the President on the ground of proved misbehavior or incapacity after an inquiry held in accordance with the procedure in that behalf.

b) That the words “central government” in clause 7(2) may be replaced by “President of India”

Both these recommendations were not accepted and incorporated in the Act.

iv) On clause 10(4) pertaining to the procedure for transaction of the business of the commission, the committee recommended that clause 10(4) should provide that the commission shall have the power to regulate its own procedure instead of the rules being prescribed by central government.

The recommendation was not accepted.

v) The committee also recommended that a new clause 10(A) may be added providing for the powers to the Commission to appoint such committees, rapporteurs, amicus curie, as may be necessary.

No such clause added to the Act.

vi) Clause 14 of the Bill provided for the same powers to the Commission as those of a civil court trying a suit under the code of civil procedure. The
committee recommended that all the powers given to the National Human Rights Commission under Section 13 of the said Act should be provided in this clause of the present Bill.  

It was not accepted and no change was effected in the Act.

vii) The Committee recommended that powers of investigation would have to be given to the Commission. For this purpose the committee framed detailed clauses 14(A), 14(B) and 14(C) and recommended that these three new clauses be added to the Bill.

No such clauses have been added to the Act.

A critical analysis of the Bill, recommendations made by the Committee, and acceptance of the recommendation and their incorporation in the Bill and non acceptance of some of the recommendations provide insight into the role and working of the Committee in the legislative process. It also indicates the inherent limitations of the Committee in context of legislative process. The Committee made 22 recommendations on the Bill. Out of 22 recommendations made by the committee only seven were accepted. The remaining 15 were not accepted by the government. Some of the recommendations could not be accepted due to technical reasons. For instance, the recommendation on clause 4, saying that in sub-clause 5(2) the words “Central Government” may be replaced by “President of India. The recommendation was unacceptable due to the constitutional position. It can be easily deduced from the analysis that lack of legal expertise in the Committee sometimes results into erroneous recommendations. However, this is just one aspect of the reality. Some of the positive aspects of the role and working of the Committee emerge out of the points highlighted hereunder:
i) Out of the seven recommendations accepted by the Committee, two have resulted in inclusion of two women members in the National Commission and the State Commission. Role of women in the context of child is crucial, so it will lead to better functioning and effectiveness of the Commission. Secondly, it will include a women perspective in this crucial matter. Besides, it is also a step in the direction of women empowerment.

ii) In another two cases, the recommendations of the committee have helped in setting up a time frame for filling up of casual vacancy and laying the report before the Parliament or the State Legislature. It is to streamline and put a sense of urgency in the system and removing the laxity or casualness.

iii) The committee submitted their report within the stipulated time of three months. So no waste of time and a very constructive contribution by the committee in terms of women inclusiveness and their empowerment.

iv) The seven recommendations which were accepted were important and improved the quality of the legislation. According to the rule of procedure of internal working, the Department is not required to submit an action taken report on the recommendations of the committee rather amended Bill with the recommendation of the committee incorporated into it or a fresh comprehensive Bill based on the considered recommendations of the committee is presented before the Parliament for consideration and passing.

v) The other recommendations made by the committee include the procedural matters of the appointment of the Chairman and members of the Commission, providing for the powers of investigation like those of Human Rights Commission. They are all with good intention, but were not accepted by the government.

vi) The committee held six sittings and took three months. It is fairly good number of meetings the attendance of the members on an average 17 which comes to more than 50%.
2. The National Institutes of Technology Bill, 2006

The Bill was introduced in Rajya Sabha on 22nd May, 2006. The Chairman Rajya Sabha referred the Bill to the Committee on Human Resource Development for examination and made a report thereon within three months. The Committee presented the report to the Parliament on 23rd November, 2006.

Intent and Genesis of the Bill

Seventeen Regional Engineering Colleges were functioning in the country since early sixties as societies registered under the Societies Registration Act, 1860 and were affiliated to the respective State Universities. The Programme of Action, 1992 on the National Policy on Education, 1986 had recommended “in order to enable the REC and to effectively act as pace setting institutes and to provide leadership to the technical education institutes in respective regions, steps will be taken to give maximum autonomy and detailed review will be conducted for deciding the future thrust and orientation so as to broaden their horizon by improving the existing management structure. The government accordingly, set up a High Powered Review Committee (H.P.R.C.) under the Chairmanship of Dr.R.A. Mashelkar. The HPRC in their report recommended inter-alia that these institutes be empowered through an enactment of Parliament to award degrees and the demand for setting up new Regional Engineering Colleges might be examined on case to case basis. 36

After due consultation with the State Governments, the Government of India converted these REC into National Institutes of Technology with the status of Deemed to be University and structural changes in governance and made them fully funded institutes of the central government. Subsequently, the government also
upgraded three more colleges namely, Bihar College of Engineering, Patna, Government Engineering College, Raipur and Tripura Engineering College, Agartala to NIT. The philosophy behind upgrading them to NIT was to upgrade them to as National Centers of Excellence for developing technical manpower, create conducive work atmosphere and provide academic autonomy.  

The National Institutes of Technology Bill 2006 was brought before the Parliament to strengthen these institutes further and provide an umbrella Act like – Indian Institutes of Technology Act, 1961.

**Consultation**

The government consulted the state governments at pre-draft stage. The committee considered the written material and background submitted by the Ministry. The committee also took oral evidence from Ministry officials. Given the nature of bill the consultation process was, by and large, limited to the state governments and the Union Ministry.

**Number of Meetings and Attendance**

The Committee considered the Bill in two sittings and presented their report on 23rd November, 2008 to the Parliament. The Committee held two meetings. The attendance of the members in the Committee was high. The first meeting was attended by 19 members and the second by 24 members. The average of the presence of the member participation in the committee work comes to nearly 70%.  

**Recommendations of the Committee and their Acceptance**

The Committee after due deliberations of the Bill made twenty (20) recommendations. The following 6 recommendations were accepted and incorporated in the Act.
Recommendations which were accepted

i) As per Clause 9 (3) of the Bill provides that Institute shall be bound to comply with the directions issued by the Visitor but no time frame has been indicated. The committee recommended the words ‘within reasonable time’ may be added after the words ‘with such directions.

The suggestion was accepted and the words ‘within reasonable time’ were incorporated in the Act.

ii) On clause 6, the committee recommended that a new sub-clause enabling the institutes to undertake consultancy in the areas/discipline relevant to the institutes may be added.

This was accepted and incorporated in the Act.

iii) On clause 11(f) pertaining to the constitution of Board of Governors, the committee recommended that instead of two professors, one Professor and one Reader/Lecturer may be nominated by the Senate to the Board of Governors.

This was accepted and ‘one Professor and one Associate Professor/Lecturer of the Institute’ was incorporated in the Act.

iv) On clause 12(c), the committee recommended that the term of office of the Member must be two years from the date of his nomination instead of from the 1st January of the year in which he was nominated.

It was accepted and provided in the Act.

v) The committee observed that under clause 12(f) an outgoing member is allowed to continue in office until another nominated member takes his place. The committee recommended that the Bill should clearly specify the maximum period for making such nomination.

It was accepted and in the redrafted Bill; the clause 12(d) was redrafted as “a casual vacancy shall be filled in accordance with the provision of Section”. 
vi) The committee recommended that the words “one of whom to be woman” may be added after the words “three persons” in clause 14(d).

This was accepted and incorporated in the Act.

**Recommendations which were not accepted**

i) The committee made a recommendation on clause 5(d) that the Department should bring necessary change in the clause with a view to ensuring uniformity in the service conditions etc. in all the institutes.

The committee also recommended that the alteration in service conditions should not be to the disadvantage of the employees.

The pension scheme should be made applicable to all the NITs except to those who joined service on or after 01.01.2004.

All these points were not included in the Act, no change in the existing clause 5(d) has been affected.

ii) On clause (6), the committee made the recommendations that objects of the institute be clearly defined in the Bill itself.

No change to the existing provision of the Bill was made.

iii) (a) The committee’s recommendation that suitable addition be made for consultation with State government in Clause (11)

(b) Secondly the committee observed that the Chairperson of the Board of Governors should be an eminent person in the technical field and this fact must be mentioned appropriately in clause 11(a) itself.

Both these recommendations have not been incorporated in the Act.

iv) On clause 13(2) (f), the committee observed that the power of the council pertaining to annual budget and annual accounts etc. should be moderated a little by adding the words “and the council shall ordinarily accept the statement made to it” after the words “….. development plans”.
This was not added in the clause of the Act.

v) On clause 14 (e), the committee recommended that (i) the statutes must provide for the representation of the students also in the Senate, and (ii) the staff and students should be elected rather than being nominated.

It was not accepted and the clause 14(e) remains unchanged in the Act.

vi) On clause 17, the committee recommended that the term of office of five years for the Director and Deputy Director may be specified.

It was not specified in the text of the Act.

vii) On clause 18, the committee opined that the Registrar should be taken on deputation for a period of three years.

The clause is not redrafted and the provision remained as it was in the Bill.

viii) On clause 25, the committee recommended –

a) That the clause 25(g) is regarding possibility of difference in the service conditions of the employees in different institutes, therefore, the uniformity should be ensured by suitably amending this clause.

b) That the subject matters contained in clause 25(n) be placed in the Bill itself instead of laying down them in the Statutes

Both the recommendations were not incorporated in the Act.

ix) On clause 26(1) regarding making the first Statutes, the committee recommended that the words “central government” be substituted by the word “council” on the lines of the provision made under IIT Act 1961.

The provision remains as existed in the Bill and the words were not replaced in the Act.

x) On clause 29(1) which pertains to Tribunal of Arbitration, the committee felt that the option granted to the institute to refer the dispute for
arbitration should be deleted hence the words “or at the instance of the institute” may be deleted from clause 29(1).

The provision remained as existed and no change is reflected in the Act.

xi) On clause 29(2), the committee recommended that the following may be added:-

this does not preclude the employees from availing the remedies provided under Article 226(1) & 32 of the constitution.

It did not find place in the Act.

xii) The Committee did not find any stipulations in clause 30 to 34 regarding the minimum number of times of the Council’s meeting in a year; the committee recommended that a provision should be made that the committee meets at least once every year.

It is not provided in the final Act.

xiii) The committee found the provision of the clause 35(a) entails the possibility of misuse, hence it should be amended suitably. It is not amended and incorporated in the final Act.

A critical analysis of the observations and recommendations made by the Committee suggests positive contribution of the Committee. Some of the important points in this regard are as follows:

i) On clause 9(3), the committee recommended for a timeframe for complying the directions issued by the Visitor. This recommendation led to the adding of words “within reasonable time”. It has helped in providing for the quicker compliance of the Visitor’s directions and to ensure that if there is any direction that should be complied with sooner than later.

ii) On clause 6 of the Bill, the committee’s recommendation led to providing for taking consultancy by the Institute. Consultancy is very important for industry-academia interaction. As such this is a valuable contribution of the committee.
iii) On clause 11(f) pertaining to constitution of Board of Governors, the committee’s recommendation resulted in inclusion of one Reader/Lecturer. It lent the representative character to the Board.

iv) On clause 12(c), the committee looked at the provision of a truncated term if the term was started from the 1st of January of the year. The committee’s recommendation gave stability to the term of the member by making it a term of full 2 years.

v) On clause 12(f), the committee recommended that the outgoing member’s term should not be dragged indefinitely and the amending clause did not leave any such scope.

vi) On clause 14(d), the committee’s recommendation ensured the women’s representative on the Senate of the Institute.

Though majority of the recommendations were not accepted by the government, the merit of some of the recommendations cannot be undermined.

For instance, the committee made recommendations for uniformity of service conditions of the employee in all the institutes, applicability of pension scheme, provision for consultation with the state governments concerned for the appointment of the Chairperson, representation of students in Senate by election, fixed term of office for the Director and Deputy Director, term of Registrar on deputation for three years. All these recommendations were also made after due deliberations by the committee. But as the recommendations of the committee have only persuasive value, the government is not obliged to accept them.

One point that needs to be noted in the context of the working of the Committee is the issue of time frame and frequency of the meetings. In this case, the time was extended by two months and time taken by the committee was six months still only two meetings were held. Frequency of meetings could be more.
Secondly, the assistance of a legal expert in framing the recommendations can lead to move compact and acceptable recommendations.

3. The Central Educational Institution (Reservation in Admission), Bill 2006

The above mentioned Bill was introduced in Lok Sabha and pending consideration was referred by the Chairman Rajya Sabha in consultation with the Speaker Lok Sabha to the Committee on 4th September, 2006 for examination and report within three months.

Intent and Genesis of the Bill

The Bill sought to provide for reservation in admission of the students belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes to the Central Educational Institutions established, maintained or aided by the Central government. The intent of the Bill emanates from the constitutional commitment of the State.

Article 46 of the Constitution lays down that the State shall promote with special care, the educational and economic interests of weaker sections of the people and in particular of the scheduled castes and scheduled tribes and shall protect them from social injustice. Access to education is of utmost importance in ensuring the advancement of persons belonging to the scheduled castes and scheduled tribes and socially and educationally backward classes of the citizens who are also referred to as the other backward classes (OBCs)

The Backward Classes Commission also made the recommendation; “seats should be reserved” for Other Backward Classes students in all scientific, technical and professional institutions run by the Central as well as State Governments. This reservation will fall under article 15(4) of the constitution and the quantum of
reservation should be the same as in the government services, i.e. 27% (Mandal Commission Report, 1980, Vol. 1, p.53)

This recommendation of the Mandal Commission was implemented for reservation in government jobs, but it could not be implemented in educational institutions.

Further in P.A. Inamdar Vs. State of Maharashtra & others case, the Supreme Court held that the State could not reserve seats in unaided educational institutions.

This had led to the demand from almost all the State Governments as well as from almost all the political parties in Parliament, for a central law and if need be for amending the constitution so as to ensure that the access to the weaker sections in higher education, particularly in professional courses was not denied or curtailed.

Accordingly, the constitution (93rd amendment) Act 2005 was passed which introduced section (5) in Article 15 of the constitution which empowers the States to make special provisions by law for the admission of SC/ST/OBC students in educational institutions. The Centre as well as State Governments have to make laws to implement this provision in respect of institutions under their purview. It was to fulfill this obligation that, the Central Educational Institutions (Reservation in the Admission) Bill 2006 was introduced in Lok Sabha

**Consultation**

The Report mentions that the Committee considered various documents and relevant papers received from the Department of Higher Education and interacted with various stakeholders. The Chairperson, National Commission for Backward classes and National Commission on Minorities as well as the Chairman of the Oversight Committee on the implementation of the New Reservation Policy in Higher Educational Institutions in a series of meetings. However, the complete details of
the consultation process is not provided. In some of the cases the details of consultation process is provided. The Report in this case is not self explanatory.

**Number of Meetings and Attendance**

The Committee held four meetings for examining the Bill. In all the meetings the attendance of the members was quite impressive which is given hereunder:

<table>
<thead>
<tr>
<th>Meeting</th>
<th>Members</th>
<th>Percentage</th>
</tr>
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<tbody>
<tr>
<td>1&lt;sup&gt;st&lt;/sup&gt; meeting</td>
<td>25</td>
<td>80.64</td>
</tr>
<tr>
<td>2&lt;sup&gt;nd&lt;/sup&gt; meeting</td>
<td>21</td>
<td>67.74</td>
</tr>
<tr>
<td>3&lt;sup&gt;rd&lt;/sup&gt; meeting</td>
<td>20</td>
<td>64.51</td>
</tr>
<tr>
<td>4&lt;sup&gt;th&lt;/sup&gt; meeting</td>
<td>23</td>
<td>74.19</td>
</tr>
</tbody>
</table>

The percentage of attendance of members in the meetings of the committees reflects that they took keen interest in the proceedings of the committee. This may also be linked to the given nature of the Bill. High percentage of attendance is recorded in very few meetings of the Committee. ⁴³

**Recommendations of the Committee and Acceptance**

After due consideration and deliberations on the Bill, the Committee presented their report on 1<sup>st</sup> December, 2006. The Committee submitted their report within a month. The committee made total 11 recommendations out of which only one recommendation was accepted. ⁴⁴

**Recommendations which were accepted**

This recommendation was made on clause 2(f) of the Bill. This clause defined faculty as ‘faculty of a university or of any other educational institution’. The committee recommended that it should be substituted by ‘faculty of a central educational institution as defined in sub-section (d) of clause (2). The same was incorporated in the Act. ⁴⁵

**Recommendations which have not been Accepted**
i) In the beginning, the committee observed they were unanimously in favour of the policy of making reservation for backward communities in the educational institutions of higher and professional learning. They also recommended that there was need for having a comprehensive survey of the total population which can bring out the social, educational and economic profile of each caste/community/sections of society.

ii) On clause 2(j) of the bill, the committee recommended that instead of “any branch of learning” the words “all the branches of study” should be inserted in this clause.

This was not accepted and incorporated in the Act.

iii) On clause 4 of the bill pertaining to some cases in which the Act is not to be applied, the committee observed that the committee was not aware of the basis on which the institutions contained in the list were selected. And also the powers of amending the schedule provided to central government needs to be exercised only with the approval of the Parliament.

This recommendation was not accepted and it was not incorporated in the Act.

iv) Committee’s observations pertaining to laying of all notifications made under this Act before both the House of the Parliament were that the language of this section was too complicated and technical, hence it should be redrafted in clear and categorical manner.

The clause was not redrafted in the Act rather the existing clause of the Bill remained the part of the Bill. 

In-depth analysis of the observations and recommendations of the Committee indicates that most of the observations of the Committee were perceptive one but they are also construed as opinion. The recommendations which were not accepted, therefore, cannot be undermined in terms of value content. The Committee also
made some recommendations which are not on the clauses of the Bill. Among them some are of special significance like reservation for women, is of special importance from the women empowerment and inclusive growth angle.

Likewise another recommendations saying that “the candidates belonging to backward classes who get admitted to educational institution on the basis of merit should not be adjusted against the reserved quota of 27%. The intent of the recommendation is for empowering weaker/ backward sections of the society and also for adopting a just and reasonable approach.

4. The Central Universities Bill, 2008

The Bill was referred by the Chairman Rajya Sabha under Rule 270 to the Committee on Human Resource Development on 14th November for examination and report within the first week of the 214th session of Parliament scheduled to begin on 10th December, 2008. 47

Intent and Genesis of the Bill

The above mentioned Bill sought to establish and incorporate universities for teaching and research in select states. It aimed at raising the Gross Enrolment Ratio in Higher education while improving its quality in time bound manner. As per the then existing figure, the gross enrolment ratio in higher education in India was about 11% which was quite low in comparison to an average of 54.6% in developing countries and an average of 36.5% in the countries in transition. There even has been the regional imbalance with regard to the GER percentage as well as the location of the institutions of higher education. 48

At the time of bringing this Bill before the Parliament, there were 24 central universities in various parts of the country. However, they were not proving sufficient. There had been a constant demand from the states either for the
establishment of new central universities in their states or to upgrade the existing state universities into central universities.

Accordingly, to meet the requests of the states and also to create the facilities for access to higher education, the Central Universities Bill, 2008 was introduced in Lok Sabha on 23rd October, 2008 proposing to establish 12 new universities in the states which did not have central universities so far and to upgrade 4 existing state universities into central universities.

Moreover, education being a concurrent responsibility it is also incumbent upon the Central government to provide access to quality higher education in those states which have been either lagging behind the national average or require special attention.

**Number of Meetings and Attendance**
The Committee considered the Bill in two sittings. The attendance of the members was on an average above 50% of total membership of the committee.

Attendance of the members in the two meetings was as follows;

1\textsuperscript{st} meeting - 17 members
2\textsuperscript{nd} meeting - 15 members\textsuperscript{49}

**Recommendations of the Committee on the Bill and their Acceptance**
The Committee after examining the Bill and having detailed consultations made 12 recommendations out of which 3 recommendations were accepted and incorporated by the government in the Act.\textsuperscript{50}

**Recommendations which were Accepted**

i) On clause 3 of the Bill, the committee after going through the views and representations observed that “the up gradation of Goa university into a central university be dropped at this stage. However, the situation may be evaluated
with a holistic and balanced approach to ensure that Goa does not remain the only state without a central university”.

This recommendation was accepted and “Goa University” was dropped from the clause 3 of the Act.

ii) The committee’s recommendations on clause 36 (1) (iii) and 36(3) of the schedule was that the words ‘such number of students’ council as may be specified by the council may be substituted by the words’ “equal number of elected representatives”.

iii) Further sub-clause (3) of clause 36 may be rephrased as “the students’ council shall meet at least twice in an academic year in place of “at least once a year”.

Both these suggestions of the committee were accepted and incorporated in the Act. 51

**Recommendations which have not been Accepted**

i) On clause 6, the committee recommended that the branches of learning of law and agriculture which did not find place in the clause 6(1) (i) should also be added.

It was not incorporated in the Act.

ii) On clause 6(1) (XVII), the committee recommended that “some definite parameters and conditions for conferring autonomous status to the institutions may be specified”.

It was not incorporated and the existing provision of the Bill remained in the Act also.

iii) On clause 6(2) (I) to (VII), the committee observed that these provisions should find place in all the Acts governing central universities.

This recommendation was a suggestion for incorporating in other Central Universities Acts, hence could not pertain to the present Act.
iv) On clauses 20(1), 21(2), 22(2) and 23, the Committee recommended that the provisions for the constitution and term of office of the court, executive council, academic council and boards of study may be included in the first schedule itself.

v) On clause 28(1) (k) pertaining to cooperation and collaboration with other universities, institutions and other agencies, the committee observed that the words “other agencies” have ample scope, hence necessary safeguards may be taken to ensure qualitative aspects of higher education.

No amendment is effected in this regard in the Act.

vi) The committee expressed strong reservation on clause (32) pertaining to the right of central government to issue directions and to call for reports and information and recommended for deletion of clause 32(1) of the Bill.

The recommendation was not accepted and the clause 32(1) remained the part of the Act.

vii) On clause (44) pertaining to transition provision, the committee recommended

a) That the appointment of the first Chancellor, the first Vice-Chancellor, the first Registrar and the first Finance Officer should be made on the basis of the recommendations of Search Committees by the Visitor instead of the central government.

b) That the term of officers should be three years in respect of first Chancellor and Vice-Chancellor and that of first Registrar and Finance Officer for two years.

c) That the eligibility conditions and qualifications of the persons to be nominated to the First Court, Executive Council and Academic Council should be stipulated in the Rules or Statutes.
These recommendations are not incorporated in the Act.

viii) On clause 2(2) of the Statute pertaining to Search Committee, the committee recommended that three members can be nominated by the Executive Council and two by the Visitor instead of ‘five’ and ‘three’ respectively.

It was not incorporated in the Act (Statute).

ix) On clause 2(5) of the Statutes pertaining to removal of Vice-Chancellor, the Committee recommended that this provision needs to be made exceptional.

No amendment has been made in the clause in the Act.

x) The committee recommended that the retirement age of the Librarian may be specified.\(^52\)

No such amendment is made in the Act.

It is apparent from the above analysis that some of recommendations of the Committee are well intentioned but all of them could not be accepted and incorporated in the Act due to technical reasons. The lack of legal expertise appears as a major limiting factor in the recommendations of the Committee. The frequency of meeting and attendance of the members are serious concern which is also evident in this case.

5. The Right of Children to Free and Compulsory Education Bill, 2008
The Right of Children to Free and Compulsory Education Bill 2008 was introduced in Rajya Sabha on 15\(^{th}\) December, 2008. In pursuance of Rule 270 of Rules of Procedure and Conduct of Business in Rajya Sabha, the Chairman Rajya Sabha
referred the Bill on 18th December to the Committee for examination and report within three months.53

**Intent and Genesis of the Bill**

The main purpose of the Bill as stated in the Report was to provide free and compulsory education to all children between the age group of 6-14 years till the compulsory elementary education. Universalisation of elementary education is intended for strengthening the social fabric of democracy through provision of equal opportunities to all.54 In fact, the objective outlined in the Bill and its affirmation in the Report has strong historical context. The Committee Report reflects the recurring concern of universal elementary education. It may be recalled that the issue of universalisation, and imparting education had been occupying the thinking of the leaders from even before independence. It was as back as 1870, when Indian leaders demanded a provision for mass education and compulsory education. During the period of Indian awakening, Gopal Krishan Gokhle made a plea to Imperial Legislative Council for introduction of Free and Compulsory Education as back as in 1906 and proposed a Private Members’ Bill for the same in 1910 which was rejected by citing shortage of resources. In 1917, Vallabhbhai Patel was successful in getting the Bill passed – the first law on compulsory Education popularly known as Patel Bill. By 1918, every province in India had Compulsory Education Act on its Statute Book.

However, many of these initiatives were not seriously implemented. Lack of resources and enforcement had been the chief reasons. Gandhi Ji gave a steering call for universal education in 1937 which was again thwarted quoting the financial
crunch. He then proposed self-funded education. While drafting the Constitution for Independent India, sub-committee on fundamental rights placed free and compulsory education on the list of fundamental rights. But Advisory Committee of the Constituent Assembly rejected free and compulsory education as fundamental right (again termed as Directive Principles of State Policy) and the first line that “Every citizen is entitled as of right to free and primary education was replaced with” the state shall endeavour to ….”

Finally, after the advent of Indian Republic, the Constitution of India incorporated free and compulsory elementary education to all children below 14 years of age in Directive Principles of State Policy under Article 45.

In Mohini Jain Vs. State of Karnataka case, Supreme Court held right to education as fundamental rights of citizens. Subsequently many courts in the country opined that it was the responsibility of the government to provide free elementary education to the children of 6 to 14 years age group. In 1992, Supreme Court reconsidered this judgement in the case of Unnikrishnan J.P. Vs. State of Andhra Pradesh and held that though the right to education is not stated expressly as a fundamental right, it is implicit in and flows from the right to life under Article 21 and it must be construed in the light of the Directive Principles of the Constitution.

Constitutional (86th Amendment) Act was passed in 2002 to enforce the Unnikrishnan Judgement. This Act added Article 21 ‘A’ to the Constitution providing that ‘State shall provide free and compulsory education to all children of the age of six to fourteen years of age in such a manner as the state may by law
determine it. It also amended Article 45 providing that state shall endeavour to provide early childhood care and education for all children until they complete the age of 6 years. This Act also introduced Article 51 A (K) imposing a fundamental duty on parents. It state “who is a parent or guardian to provide opportunities for education to his child or ward as the case may be, between the age of six and fourteen years.”

Article 21 ‘A’ introduced by this Act merely mentioned the age group for which the right is guaranteed and left the content to be regulated by law.

There was constant demand, after Constitutional amendment for a law on free and compulsory education in India and there were several central level aborted attempts towards this end.

It was to fulfill the constitutional obligation of universalisation of elementary education that the Right of Children to Free and Compulsory Education Bill 2008 was brought before the Parliament.

**Number of Meetings and Attendance of Members**

The Committee considered the Bill in two sittings

The first meeting in which the Secretary and the officials of the Department of School Education and Literacy rendered their evidences was attended by total 15 Members which comes to 50% attendance. Second meeting considered and approved the draft report and was attended by total 19 members which comes to 63% attendance. 55
Consultation process

The Committee Report lists out the details of consultation on the Bill. Keeping in view the nationwide implementation and implications of financial resources wide ranging consultations were held even before the drafting stage of the Bill. The Bill was first discussed in Central Advisory Board of Education (CABE) meeting on 14th July, 2005 under the Chairmanship of the Union Minister of Human Resource Development. The list of participants included 73 eminent personalities associated with the higher education sector in the country, Minister of Science & Technology, Member (Education) Planning Commission, 14 Education Ministers of different States, three Lok Sabha Members and two Rajya Sabha Members, Chairman of University Grants Commission and All Indian Council of Technical Education, Medical Council of India, Director of NCERT, NIEPA, Chairman CBSE, Secretary General AIU, Secretaries of Government of India, Secretary, UGC. many eminent educationists, officers of the Union Ministry of Human Resource Development and State Education Departments. 56

The CABE also set up a Committee in the Chairmanship of Shri Kapil Sibbal (the then Minister for Science & Technology) to draft the essential provisions of the Bill. This Committee also had the representative of 4 Education Ministers of State Governments, and many top educationists of the country. 57

Since the Bill had an all India implications in terms of implementation and the resources sharing, infrastructure creation, jurisdictional and adjudicational ramifications, all sections were taken on board.
The suggestions/objections were also invited from the NGOs and the individuals by the CABE committee. Six written submissions from individuals were received by the Committee. Two State Ministers of Education from the State of Madhya Pradesh and Orissa sent their comments. Prof. Anil Sadgopal sent 6 papers and 6 letters.  

Others groups who submitted their critiques on the draft Bill included – Public Study Groups, TN Forces, Lokshala Bihar, and CABE Committee on girls education and Public Study group on CABE Committee.  

Besides the written submission, many key persons were invited to participate in the deliberations of the Committee.  

The above mentioned consultation was carried out by the CABE and their committee. It was pre-drafting or before the Bill was introduced in the Parliament and referred to the Committee.  

Besides the wide consultation process followed before the drafting of the Bill, The Departmentally Related Standing Committee on Human Resource also invited suggestions and comments from individuals and organizations. The Committee received suggestions/comments from 52 organisations and individuals on the issues related to Right to Education Bill.  

18 Number of States/UTs also sent their written comments to the committee.  

The committee examined the provisions of the Bill in the light of all written material received and background material submitted by the Ministry in the form of CABE
Committee report and written submission sent by the individuals, organizations and the State Governments.

The committee also took note of the fact that there were 18 States and 2 Union Territories which already had their own legislations dealing with compulsory elementary education and their experiences should be taken into consideration.

**Recommendations of the Committee and their Acceptance**

The Committee examined the Bill and studied all the background material, evidences tendered before it and other documents relevant and presented their report to the Parliament containing total no. of 16 recommendations out of which 4 were accepted. 63

**The recommendations which were accepted and incorporated in the Act**

i) On clause 21 pertaining to the constitution of school management committee, the committee recommended for adequate representation of women. This recommendation was incorporated in the Act by adding a proviso; “provided also that fifty percent of members of such committee shall be women”.

ii) On clause 32 (2) pertaining to Redressal of Grievances, the committee recommended for replacing the words ‘as early as possible by a time frame of three months’. This recommendation was accepted and incorporated in the Bill.

iii) On clause 33 pertaining to the Constitution to the National Advisory Council to advice the Central Government, the Committee recommended for the constitution of State Advisory Council at State level also. This recommendation of the Committee was accepted and
incorporated in the Act by adding next Clause 34 providing for the constitution of State Advisory Councils by the State Governments.

iv) The recommendation is on Clause 34 of the Bill which became 35 in the Act and relates to the deletion of the words ‘and directions’. This recommendation was accepted and the words ‘and directions’ have been deleted from the clause in the Act.

The other recommendations which were not Accepted

i) The committee recommended on Clause 2(n) that the definition of the school should include ‘primary schools’ also. It was not accepted and not incorporated in the Act.

ii) On clause 3(1), the Committee recommended that the term ‘neighbourhood school’ be defined appropriately taking into consideration the fact that the criterion of distance can be different for plains, mountains and deserts. It was not accepted as the criterion is not fixed or defined in the Act.

iii) The recommendation on clause 7 of the Bill is important as it deals with the sharing of the financial burden between Central & State Government for implementing the RTE Act. The Committee recommended that the overall financial cost as well as the sharing formula between the Centre and the States must be settled. No such formula is incorporated in the Act.

iv) On clause 7(6) committee recommended for a provision for development of skills of children through vocational education at an appropriate level in elementary education. It was not accepted as no such provision is provided in the Act.

v) On Clauses 8, 9 and 10, the Committee recommended for placing a fool proof mechanism in place to ensure the compliance of the
provisions and also to take measure to create mass awareness about the legislation. This is not incorporated in the Act.

vi) On Clause 12, the Committee recommended that the burden of expenditure of 25% under privileged children should not be passed to the remaining 75% of children. The Committee also recommended that the provision of 25% of admission should be from the nursery class itself instead of Class I. This was not accepted and the provision is not incorporated in the Act.

vii) Recommendations on Clause 13, 14, 15, 18 and 19 pertains to the provision of penalty in respect of capitation fee, screening procedure for admission, non-denial of admission due to lack of proof of age, mandatory requirement for certificate of registration and norms and standards for school.

The Committee while appreciating these provisions felt the need of a fool proof monitoring system for its effective implementation. The Committee also underlined the importance of the age-proof and was in favour of age proof either in affidavit from parents or certificate from the village panchayat or local counselor. The Committee also recommended that the authority responsible for extending period for admission is not clear and rules should also be framed for the same. None of the recommendations are incorporated in the Act.

viii) On Clause 16 pertaining to prohibition of holding back and expulsion. The committee recommended that the minimum level of grading should be fixed for promotion and also a provision for punishment for the habitual defiant child should be made. It was not incorporated in the Act and the existing Clause remained unaltered.

ix) Observation of the Committee on Clause 26 is pertaining to filling up vacancies of teachers, is just an expression of concern hence not included in the Act.
x) On Clause 30 (2) pertaining to the award of certificate of completion of education. The Committee recommended for a standardized assessment of child. It was not incorporated in the Act.

xi) The Committee’s recommendation on Clause 31 seems to be not required as the provision for appeal had been made in Clause 32 of the Bill and the subsequently in the Act as well. 65

It is evident from the analysis of the Report that the contribution of the committee in this case is found to be quite substantial. Though only four out of sixteen recommendations were accepted by the Committee, the merit of other recommendations/observations cannot be undermined. The four recommendations which have been incorporated in the Act are of great significance. The recommendations which have not been incorporated in the Act are also not less significant. All of them reflect the concern of the Committee. Some of the important points that emerge out if the recommendations/observations of the Committee need special mention. These are as follows:

i) Recommendation on Clause 21 regarding representation of women on the school management committee which led to the 50% representation of women, not only underlines the fact that women are a major stakeholder in education of the children, but it also strengthen the cause of women empowerment and inclusiveness.

ii) The other recommendation of the Committee which has been accepted is on clause 32 which deals with the redressal of grievances by the local authority or by State Commission for Protection of Child Rights. The sub –Clause 2 of this Clause of the Bill lay that the State authority shall decide the matter ‘as early as possible’.
The Committee found the term as vague and recommended to specify a time frame of ‘three months’.

Three months time has since been specified in Clause 32(2) of the Act at the behest of the Committee. This recommendation focused on imparting quick and time bound justice.

iii) The Clause 33 in the Bill provided for the constitution of National Advisory Council to advise the Central Government on implementation of the provisions of the Act in an effective manner. The Committee suggested that the National Advisory Council would be able to fulfill its function only when the monitoring is done for the whole country and therefore, recommended for the constitution of Advisory Council at State level also.

On the basis of this a new Clause 34 was added in the Act to provide for the constitution of the State level Advisory Councils.

iv) The clause 34 of the Bill lays down the powers of the Government to issue guidelines and directions to appropriate government, the committee recommended that keeping in view the constitutional scheme of division of powers between the centre and the states the words ‘and directions’ should be deleted. As this recommendation was accepted and only the word ‘guidelines’ occurs in the main Act. The words ‘and directions’ were deleted on the basis of committee’s recommendation. The contribution of the committee in this way led to improve Centre-State relations and most importantly autonomy of the State has been given due consideration.
The number of the recommendations also signifies the fact the committee studied each & every clause of the Bill intensively and applied their mind. However, only 25% of recommendations were accepted and incorporated in the Act. Non acceptance and non incorporation of some of the recommendations are not essentially meant to ignore or sideline the recommendations.

The recommendations which have not accepted and incorporated in the Act are either observation or do not pass the test of legality. For instance, recommendation on Clause 2(n) was not incorporated in the Act as elementary education also includes primary education. Therefore, hardly need of incorporating primary education as separate category. Similarly recommendations on Clause 3(1), Clause 7, Clauses 8, 9 and 10 do not require incorporation in the Act. Minute details are taken care by the rules framed under the provision of the Act. Similarly recommendation on Clause 12 has to be taken care by the rules, and the government has provided in the rules that this amount will be reimbursed by the government.

As is clear from the recommendations on the Clause 13, 14, 15, 16, 18 & 19 that they are more in the nature of observations/ expression of concern which can be taken care of in the Rules under the Act instead of incorporating them in the body of the Act itself.

Recommendation on Clause31 does not require separate treatment as provision had already made in the Clause 32.

The attendance of the Members above 55% on an average shows that Members showed keen interest in the Committee work.
The Bill was referred to the Committee on 18\textsuperscript{th} December, 2008 and the Committee presented their report on 18\textsuperscript{th} February, 2009 (within two month) hence no time escalation.

To sum up, the above exposition on the role and working of the DRSCs in the legislative process in generic terms and in-depth analysis of the role played by the Committee in the legislative process of select bills provide important insights. In the first case it is established that the Committee plays important role. In the absence of committees’ in-depth examination of the bill would have very difficult for the Parliament due to the overload of functional responsibilities. The committee makes it possible to examine the proposal threadbare and give its observations and recommendation in the form of a comprehensive Report on the subject.

The examination of the role and working of the Committee in legislative process have been done in the specific context of referred bills. In-depth analysis of the Reports of the Committee on bills and corresponding Acts unravel many important points relating to the role, working and contributions of the Committee. The four parameters of evaluation of the role and working of the Committee applied in the study reveal many interesting points. One of the most important concerns is the attendance of the members in the Committee. In majority of the cases attendance of the members have not been encouraging. Unless the members attend the meetings and actively participate in the transaction of the business, the very intent of creating DRSCs remains elusive. Similarly, the frequency and duration of meetings the Committee are also important. The examination of the Reports shows that on both account the response of the Committee is not very encouraging with just few
exceptions. In some of the cases it was found that Committee did not meet frequently. In some cases the duration of the meeting was just 30 minutes or at most one hour.

In terms of examination of the bills and observations and recommendations made on specific bill may be considered as substantive contribution. Though the Committee made wide range of observations and recommendations on bills, very few of them got incorporated in the Acts. As it has been pointed out in the analysis of specific cases that most of the recommendations which were not accepted and incorporated in Acts were either in the form of opinion and observation or part of the detailed rules which follow to Act. It is important to mention in this regard that some of the recommendations made by the Committee lacked the needed background or the legal expertise. However, the recommendations and observations were significant ones.

In the light of the findings of the study following points acquire critical significance for the effective working of the Committee:

i) The attendance and meaningful participation of the members in the transaction of the business of the Committee is a requisite for effective functioning.

ii) Frequency and duration of the meetings need to be enhanced otherwise the business of the Committee would not be transacted in a meaningful way.

iii) Help of legal expertise is required in the Committee. This will prevent the committee from making erroneous observations and recommendations. This will result into greater acceptance of recommendations.
iv) Maximum attempt should be made to match the expertise of the members and requirement of the committee in the process of appoint of membership of the committee.

Notes

1The other main functions besides examination of Bills of the Departmentally Related Standing include- examination of Demand for Grants, examination of Annual Reports of the Ministries, Departments or establishments, and examination of long term policy documents. The issue has been discussed in details in the previous chapter. For Further details see Lok Sabha Secretariat, Departmentally Related Standing Committee, New Delhi: Lok Sabha Secretariat, 2009.


3Ibid


University Bill, 2008; and Two Hundred Thirteenth Report o the Right of Children to Free and Compulsory Education Bill, 2008.

9 The Reports cited above in n.8 elicit information about the recommendations made by the Committee on the referred Bills. In order to know the status of inclusion of the recommendations the following corresponding Acts have been studied-


11 Ibid, p1
12 Ibid, p1


14 Ibid, pp45-56.


18 The Commissions for Protection of Child Rights Act, 2005, p.3
19 Hundred Sixty-Fifth Report on the Commissions for Protection of Child Rights Bill, 2005, p.4

20 The Commissions for Protection of Child Rights Act, 2005, p.4
22 *The Commissions for Protection of Child Rights Act, 2005*, p. 4

23 *Hundred Sixty-Fifth Report on the Commissions for Protection of Child Rights Bill, 2005*, pp.5-6


30 Ibid, p.3

31 Ibid, p.4

32 Ibid, p.5

33 Ibid, p.5

34 Ibid, p.6


37 Ibid

38 Ibid, pp 13-16.

39 For details of recommendations made by the Committee see the Departmentally Related Parliamentary Standing Committee on Human Resource Development *Hundred Seventy-Eighth Report on the National Institutions of Technology Bill, 2006*.

40 For ascertaining the status of acceptance of recommendations by the Committee see *The National Institutes of Technology Act 2007*. Acceptance of recommendations implies incorporation in the Act

41 Ibid.

Ibid, pp.27-33.

For details of recommendations made by the Committee see the Departmentally Related Parliamentary Standing Committee on Human Resource Development, *Hundred Eighty-Sixth Report on the Central Educational Institutions (Reservation in Admission) Bill, 2006*

For ascertaining the status of acceptance of recommendations by the Committee see *The Central Educational Institutions (Reservation in Admission) ACT, 2006*.

Ibid


Ibid, p.1

Ibid, p.65-67

Ibid

For ascertaining the status of acceptance of recommendations by the Committee see *The Central Universities Act, 2009*.

Ibid


Ibid

Ibid, pp 61-64.

Ibid, pp 45-47.

Ibid, pp 48-49.

Ibid, pp 50-51

Ibid, p53.

Ibid,pp54-56

Ibid, p.57.

Ibid, p.57.
Details of recommendations clause wise are included in the Departmentally Related Parliamentary Standing Committee on Human Resource Development, *Two Hundred Thirteenth Report on the Right of Children to Free and Compulsory Education Bill, 2008*

For ascertaining the status of acceptance of recommendations by the Committee see *The Right of Children to Free and Compulsory Education Act, 2009.*

Ibid