CHAPTER V
POLICY PERSPECTIVE IN HIGHER EDUCATION
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Commercialization of the higher education environment has significantly altered the relationship between economy and education. The post-1991 economic reforms have greatly altered the traditional goals of higher education. The emphasis has shifted from production of social knowledge to preparing students for gainful employment, developing new skills and the adaptability to deal with an increasingly competitive international labour pool. The universities have been almost compelled to change their agenda in redefining their role and functions in tune with the market ideology.

At the time of independence education continued to be a state subject\(^1\). The interim recommendation to the government for placing higher education under the concurrent list of the Indian Constitution was made by Dr. S. Radhakrishnan, Chairman of the University Education Commission (1948). Though the recommendation was not accepted by the Constituent Assembly at that time; much later in the year 1976 by the 42\(^{nd}\) amendment to the Indian Constitution, education was placed on the Concurrent List. Subject to Entry 66 of the Union List, the Central government was made powerful to exercise its control for coordination and determination of standards in institutions of higher education or research or scientific and technical institutions.

The Central Advisory Board of Education (CABE) was entrusted the responsibility to bring coordination between the Centre and States in the field of higher education. The Planning Commission was established in terms of Entry 20 in the concurrent list to exercise its authority over the fiscal relationship between the governments in various states and at the Centre. In addition the University Grants Commission (UGC) acts as a vital link between the policy making bodies of the government and the various higher education institutions in India.

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\(^1\) Education became a provincial subject in 1921. The Government of India Act of 1935 made a clear distinction between the powers of the Federation (Centre) and those of the Provinces. Two lists of subjects were drawn enumerating central powers and provincial powers. At the time of Independence, India gave to herself the Constitution and adopted these lists as Union List, State List and a third list called Concurrent List defining shared powers between the centre and the states.
The development of higher education in India has taken place as an outcome of operationalization of programmes that surfaced from landmark policy pronouncements of various commissions and committees on education. While many of the suggestions have been successfully implemented, there are many that are yet to be achieved, the most crucial among all being the six percent allocation of national income to education. Since the 1990’s official policies and plans of the government and the UGC have determined the direction in which higher education in India has moved. The reports of the World Bank and UNESCO have played a strategic role in guiding the policy makers to frame a roadmap for the higher education system in India. Though the official policies treat higher education as a non-commercial activity, the present trends defy it (Bhushan, 2007, p.149). In its Memorandum submitted on July 26, 2010 to the then Prime Minister of India, Dr. Manmohan Singh and the Minister of Human Resource Development, Mr. Kapil Sibal, the All India Forum for Right to Education (AIF-RTE), 2010 expressed:

The post-independence policies and the education system has already strayed significantly from their vision evolved during the freedom struggle. In higher education, this resulted in restricting access, inequality of opportunity, generally sub-standard institutions and, more importantly, in uncoupling education from the needs of India’s economy, challenged by impoverishment, disparities and questionable direction of development. The state has now apparently decided not to pursue this unfinished task of fulfilling the aspirations of the people through a primarily state-funded but democratic and decentralized system aimed at equitable social development. Instead, the neo-liberal shift is embedded in a market-oriented instrumentalist approach to knowledge designed at producing a cheap skilled but slavish workforce to serve the corporate controlled global economic agenda of appropriation of people’s natural resources, habitats and livelihoods for profit, subjugation and hegemony (AIF-RTE, 2010 p. 3-4).
In addition, spates of bills have been introduced by the Ministry of Human Resource Development (MHRD) in the Parliament during 2010 that have been considered to enable the implementation of neo-liberal reforms in Indian higher education system (Sharma, 2005). The proactive role of the judiciary and the judgments of the courts since the nineties have virtually endorsed of giving a legal license to higher education to become commercialized.

5.1 ALLOCATION OF NATIONAL INCOME TO EDUCATION

State funding to education, in general and to higher education, in particular has been declining in real terms since the adoption of new economic policies in 1990’s (Prakash, 2007). The stabilization and structural adjustment policies of the early 1990’s required a drastic cut in the public expenditure especially in education (Tilak 2004) and more particularly in higher education (Tilak, 2011). As a result, the public expenditure on higher education as a percentage of GNP has never risen above one percent and as a percentage of GDP has not risen above 1.29 percent since 1990-91. As a matter of fact, even the public expenditure on education as a percentage of GDP has not exceeded 3.98 percent since 1990-91(Analysis of Budgeted Expenditure on Education, various years).

The Education Commission (1964-66) made an estimation of the financial outlays required for quantitative as well as qualitative expansion in education. In its monumental report titled ‘Education and National Development’, the Education Commission of 1966 clearly stated that, “We should strive to allocate the largest proportion of GNP possible to educational development” (p. 873). It emphasized the critical role of education in the socio-economic development of the nation. Further, the report emphasized that “in an age of science, there can be no greater risk than a policy drift and niggardliness in education” (ibid., p.892).

This recommendation of allocation of six percent of national income to education by the year 1985-86 was accepted by the Government of India in the National Policy on Education (NPE), 1968 and it was resolved “to increase the investment in education so as to reach a level of expenditure of six percent of national income as early as possible” (Government of India, 1968, p.9). Since the goal could not be accomplished in the stipulated time frame, the recommendation was reiterated in the National Policy on Education (NPE), 1986 as “it will be ensured that from the
Eighth Five Year Plan onwards it (the outlay on education) will uniformly exceed to six percent of national income” (Government of India, 1986, p.29). The goal still unachieved, was reiterated again by the Acharya Ramamurthy Committee, 1991 and in several reports of the CABE. The Economic Survey of the Ministry of Finance (1999) quantitatively under-defined the goal to increase public allocation to six percent of national income to education. As a matter of fact, it was stated that India is already spending about or more than six percent GNP on education. Further, these documents argued that the recommendation of the Education Commission (1964-66) on six percent allocation of GNP covered governmental and non-governmental expenditure. However, in the review document entitled ‘Challenge of Education: A Policy Perspective (1985)’ the point was made clear. The former Education Secretary Anand Sarup circulated a paper in the meeting at the Planning Commission stating that six percent allocation is to be made in the plan and non-plan outlays of the Central and State expenditure on education. Finally, the Common Minimum Programme of the ruling government (2004) pledged ‘to raise the spending in education to at least six percent of the GDP in a phased manner’ (Tilak 2006, 2008).

It is a national shame that after sixty years of independence, one-third of the population of the country is illiterate even at the cost of starving the higher education sector of public funds for its development. The matter is one of priorities and lack of political will. The shortage of resources as a constraint is a mere alibi. As a matter of fact, the white-supremacist South African state spent on the education of the black majority during the apartheid period (despite massive expenditure it had to incur to maintain the police, military and intelligence apparatus) much higher than what the Indian government has spent on education as a whole, post-independence (Patnaik, 2011, p.188-189). To reach the goal of six percent is not an impossible task, provided the government has the political will to do so (Tilak, 1984, 1986, 2006, 2008). As a matter of fact, the six percent norm does not have any sanctity and relevance in the present times, says Tilak (2006) because the government is constitutionally

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2 It was stated that “Financing of education-increase in government and non-government spending education, and bringing this up to six percent of GDP level” (Economic Survey, 1998-99, p.150).

3 The term ‘national income’ and ‘GNP’ were replaced by ‘GDP’ in this statement. It was also mentioned in the Economic Survey 2004-05 (Tilak, 2008, p.524).
committed to provide education for all as a fundamental right and so, the requirement is much more than six percent, as evidenced through research.\textsuperscript{4}

5.2 POLICY ON HIGHER EDUCATION

In the present section of the chapter, analysis of various policies in the context of higher education in India has been conducted. In addition, the recommendations spelt out in various World Bank and UNESCO reports that have played a decisive role in guiding the policy makers in India to outline a development roadmap for the higher education sector, have also been presented.

5.2.1 The World Bank Report on Financing Higher Education in Developing Countries (1986)

The Report put forth as one of its major recommendations related to financing of higher education in developing countries that since the governments in these countries face shortage of funds, students and their parents must be made to share the cost of education. The report further presented a case for shifting subsidy on education to primary level from higher level on the ground that only relatively better-off students are able to enter higher education. By shifting the subsidization of education to primary education would be more egalitarian, as giving it to a few better-off students would perpetuate inequality.

Besides, emphasizing on reducing public subsidization of higher education, the World Bank suggested in its report, cost recovery from the students, provision of education loans to students desirous of higher education and allowing private educational institutions to charge fee sufficient to meet costs. It was precisely during this time when the World Bank was advocating the elimination of subsidies for social services, the National Policy on Education (NPE) 1986 was framed in India. To mobilize additional resources for education, one of the suggestions mentioned in the policy was “…raising fees at the higher education level” (NPE 1986, p.28; The Review Committee on National Policy on Education, 1992, p.35).

\textsuperscript{4} While Seth (1985) estimated the proportion of an appropriate allocation on education to be 10 percent, Tilak (1994) estimated it to be 8 percent of GNP and Rao (1992) was of the view that the allocation on education should be around 25 percent of GNP to spend equivalent to countries like Singapore (Tilak, 2006, p.615).
5.2.2 Report of the UGC Committee towards New Educational Management (Gnanam Committee Report, 1990)

The report recognized the importance of higher education in “academic pursuit, augmenting knowledge and national development” (UGC, 1990, p.1). It suggested changes in management of universities that are crucial for enabling the system to discharge its role in a proper way. Many recommendations were spelt out by the committee for enabling the universities to become “efficient, result oriented and averse to politicization” (ibid, p.2). The report highlighted the need and importance of “university autonomy to ensure academic excellence and development”. Furthermore, it recognized the need for “decentralization of the higher education system for smooth and efficient administration of university affairs” (ibid, p.3). To raise funds for universities it suggested that the “corporate sector (both private and public) should be encouraged to come forward to support higher education” (ibid, p.6).

5.2.3 Report of the CABE Committee on Gnanam Committee Report (Soneri Committee, 1992)

Out of the 144 recommendations given by Gnanam Committee, the CABE Committee accepted 67 recommendations, rejected 10 recommendations and accepted the remaining 67 recommendations with modifications. The committee agreed with Gnanam Committee recommendation regarding university autonomy to ensure academic excellence and development. Also, it accepted the recommendation on decentralization of the higher education system for smooth and efficient administration of university affairs. Furthermore, the recommendation of Gnanam Committee to raise funds for universities from the corporate sector (both private and public) was supported by the Committee. In addition, the Committee suggested that universities should be allowed to raise resources and retain the funds raised by them. Besides, it suggested that universities should also consider introduction of higher fees from foreign students. Finally, it recommended that by and large the universities are dependent mostly on government funding for promoting research. Hence, attempts should be made to mobilize resources from industry and trade and developmental agencies for undertaking relevant research (CABE, 1992, p.13-14).
5.2.4 Committee on UGC Funding of Institutions of Higher Education  
(Punnayya Committee, 1993)

The Government of India set up two committees in pursuance with the provisions in the Programme of Action (POA), 1992. The purpose of these committees was to make recommendations on mobilization of additional resources for higher education. These committees were- (i) Committee on UGC Funding of Institutions of Higher Education also known as Punnayya Committee, 1993 (ii) High Power Committee for Mobilization of Additional Resources for Technical Education, also known as Swaminadhan Committee, 1994.

The Committee on UGC Funding of Institutions of Higher Education (UGC, 1993) made recommendations that were limited to central universities, deemed to be universities, Delhi University colleges and Banaras Hindu University as per its terms of reference. It did not examine the financial position of state universities (Bhushan, 2008, p.253). Some of the recommendations of the Committee were as follows:

i. Tuition fee maybe revised upwards with immediate effect and maybe periodically adjusted to rise in costs. The tuition fee may have to be different within a university for different courses of study (UGC, 1993, p.77).

ii. Other fees (such as fee for library, laboratory and sports) must be so charged as to recover the recurring costs of operation. Hostel fee should be revised to meet all the actual recurring cost and in due course of time a part of capital cost as well (ibid., p.77).

iii. Universities should let out their infrastructural facilities like playground, auditorium etc. and organize short-term courses for which there is demand.

iv. Resources generated by universities should constitute at least 15 percent of the total recurring expenditure at the end of first five years and at least 25 percent at the end of ten years.

v. Any additional resources generated by a university/institution maybe kept in a separate fund to be utilized for furtherance of the objectives of the universities/institutions.

vi. UGC may provide a matching grant as an incentive to universities generating additional resources.
Thus, the committee recommended the need for raising tuition fees in public higher education institutions, its upward revision and its periodic adjustment with inflation (Agarwal, 2009, p.140). It was made clear by the committee that the increased burden of fees and charges should be borne by those who can afford it (Kaur, 2011).

5.2.5 High Power Committee for Mobilization of Additional Resources for Technical Education (Swaminadhan Committee, 1994)

The recommendations of the Swaminadhan Committee were quite similar to the recommendations made by the Punnayya Committee. It stressed upon lesser dependence of higher and technical education institutions on government support because “over dependence has led to both inadequacy and rigidity in resource allocation to various sectors of academic activity” (AICTE, 1994, p.3). It emphasized on raising internal and external resources from industry, alumni, charitable trusts etc. Full cost recovery was suggested which could be done by allowing the government and aided institutions to start new specialized programmes for specific target groups on self financing/ net revenue earning basis. Besides this, the committee suggested revision of tuition fee in all government funded and aided institutions in all the states to a rational level of at least 20 percent of the annual recurring cost per student (ibid., p.19). Furthermore, the Committee recommended the establishment of an Educational Development Bank of India (EDBI) under which a National Loan Scholarship to provide soft loans to needy students should be initiated.

Thus, the Swaminadhan Committee like the Punnayya Committee laid emphasis on reducing reliance of public funding and relying upon internal and external sources of resource mobilization (Kaur, 2011; Singh, 2009). Tilak (as cited in Kaur, 2011) explained that besides the recommendations of these two committees, the Government of India and the UGC constituted several committees in 1997, 1999, 2000 to work out on fee reforms. The recommendations of all these committees were well received by the Government of India.

5.2.6 The World Bank Report, 1994

In its report entitled ‘Higher Education: The Lessons of Experience’ (1994) the World Bank focused on basic education on the basis of rates of return analysis and
favoured cost-sharing and the promotion of private higher education. The Bank gave several counter arguments on public investment in higher education. It was argued that social rates of return are lower than private rates of return to higher education; hence individuals should pay for their education (Psacharopoulos, 1994; World Bank, 1994). However, in the executive summary of its report the Bank stated:

Higher education is of paramount importance for economic and social development. Institutions of higher education have the main responsibility for equipping individuals with the advanced knowledge and skills required for positions of responsibility in governments, business, and the professions. These institutions produce new knowledge through research, serve as conduits for the transfer, adaptation, and dissemination of knowledge generated elsewhere in the world, and support government and business with advice and consultancy services (World Bank, 1994, p.1).

The report further explained:

Despite the clear importance of investment in higher education for economic growth and social development, the sector is in crisis throughout the world. In all countries, higher education is heavily dependent on government funding. In an era of fiscal constraints, industrial as well as developing countries are grappling with the challenge of preserving or improving the quality of higher education as education budgets—particularly expenditures per student—are compressed. The crisis is more acute in developing countries, both because fiscal adjustments have been harsher and because it has been more difficult for developing countries to contain pressures for enrollment expansion, given relatively low enrollment ratios…in these countries, higher education institutions operate under adverse conditions: overcrowding, deteriorating physical facilities and lack of resources for non-salary expenditures such as
textbooks, educational materials, laboratory consumables, and maintenance (ibid., p.1-2).

To help the developing countries achieve their goals of greater efficiency, quality and equity in higher education, the World Bank enumerated the following prescriptions or four key directions for reform based on lessons of country experience:

- Encouraging greater differentiation of institutions, including the development of private institutions
- Providing incentives for public institutions to diversify sources of funding, including cost-sharing with students, and linking government funding closely to performance
- Redefining the role of government in higher education
- Introducing policies designed to give priority to quality and equity objectives (ibid., p.4).

The report emphasized on the need for institutional reform in higher education (Kent, 1996, p.5). The reason given by the World Bank for the crisis in higher education throughout the world is however, arguable. This is because in many European countries the crisis emerged in 2004 while in U.S.A it was in 2006. In fact, the Bank has been responsible in contributing to the crisis throughout the 1980’s by emphasizing on decline in public subsidization to higher education (Robertson, 2009, p.119-120).

The crisis in higher education in developing countries has been aggravated by the Bank itself, through its policy prescriptions “that include, inter alia, reduced emphasis on higher education and more specifically reduced public investments in higher education” (Tilak, 1985, p.597-598). “The World Bank seems to feel that reduced emphasis on higher education by the government would be economically and educationally an efficient proposal. These contradictions are not specific to the Indian context. Many developing countries might share these and similar ones” (ibid., p.603).
5.2.7 Private Universities (Establishment and Regulation) Bill, 1995

The Private Universities (Establishment and Regulation) Bill was introduced in the Rajya Sabha in August 1995 by the then Narasimha Rao Government, with several objectives in mind. Firstly, it was introduced to fight out the financial resource crunch of the government and secondly, to provide a legal framework for the establishment of self financing colleges and private universities (Agarwal & Sharma 2004, Singh 2009). It was based on the premise that “private universities could play a subsidiary and supportive role to the endeavours of the State-run universities in the tertiary education sector.....The establishment of universities required a specific or enabling legislation, as it was necessary to have a broadly uniform set of guidelines for ensuring academic standards, prevention of commercialization and mismanagement” (Powar & Raju, 2004, p. 99-100).

The Statement of Objects and Reasons of the Bill pointed out that private universities will be “self-financing universities not requiring any financial support from the government”. These self-financing private universities will provide courses of study in “emerging areas of science and technology” by “making available additional finances”. The Bill had provisions that would have allowed registered societies, public trusts and companies registered under the Companies Act, 1956 to set up universities [Section 2(d) (i, ii, iii)]. Furthermore, the Bill required that any sponsoring body may apply to the central government through the UGC (which would serve as a ‘nodal agency’) for permission to establish a private university against a deposit of Rs. 10 crore or more as endowment fund (Section 8.2). In addition the Bill stated that The Chancellor of the university would be appointed by the sponsoring body, with the approval of the Central Government, for a period of three years (Section 15.1). The first Vice- Chancellor would be appointed by the Central Government from a panel of three names proposed by the chancellor (Section 16.1). The Board of Governors would be the Supreme governing body of the University. It was to have consisted of the Chancellor, the Vice- Chancellor, three persons nominated by the sponsoring body, one representative of the Central Government, one representative of the State Government concerned, and one academician, nominated by the UGC (Section 21).
The Bill was however, withdrawn and not enacted amid objections and apprehensions that were raised. The Bill was referred to the Parliamentary Standing Committee on Human Resource Development. The Bill was later revived by the successive governments but could not be passed and enacted.

A Committee appointed by the UGC in 2002 to consider two private university bills of state governments noted that if the Private University Bill, 1995 would have been passed it would have avoided the chaotic growth of private self-financing universities in various states.

As a matter of fact, the Bill had made provisions to ensure that the major control of the universities would remain in the hands of the sponsoring body. Moreover, the Bill describes the Chancellor and the Vice-Chancellor of private universities as ‘officers’ and not ‘academicians’. There would be no academic freedom in these universities and they would simply function like industry for making profits. After all, no private sponsoring body would invest crores of rupees for the sake of philanthropy or for advancement of learning and education. In addition, the Bill does not mention at any point that academic consideration shall be important for seeking admission in these universities and institutions. Thus, money may alone be the sole consideration of admission in these universities. Besides, these universities would have the liberty to raise funds by demanding high tuition fees, capitation fees and donations. Finally, just like factories, these universities may close down at any time they wish to or as directed by the UGC, and this may put the future of existing enrolled students on stake as they may not be able to complete the course (Agarwal and Sharma, 2004, p.27). The Bill was opposed as it was felt that its enactment and thereby the establishment of private universities would lead to commercialization and deterioration of quality standards of higher education in India. In addition, it was felt that the Bill remained pending for approval because some of its clauses like the

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5 The Sikkim-Manipal University of Health, Medical and Technological Sciences Act, 1955 (Government of Sikkim, 1995) was enacted in 1995. Similarly, The Chhattisgarh Nij Ki Kshetra Vishwavidyalaya (Shapana aur Viniyaman Adhiniyam, 2002 (Government of Chhattisgarh, 2002) [in English The Chhattisgarh Private Universities (Establishment and Regulation Act, 2002)] was enacted in 2002 whereby private universities could establish private universities through notification in the government gazette without prior consideration of the legislature. Later, the Supreme Court of India struck down the Private Universities Act of Chhattisgarh, 2002 through passing a judgment in the writ petition number 19 of 2004 and upheld the validity of UGC Regulations in February, 2005 (Agarwal, 2009, p.80).
requirement of endowment fund of Rs. 10 crores, 30 percent full freeships, government control and monitoring were not well received by the private sector (Agarwal, 2009; Gupta, 2004; Powar & Raju 2004, Sharma, 2007; Singh, 2009). As a matter of fact, the lack of clarity of the government to go about the issue of getting the Bill enacted was made clear by a statement of the then Human Resource Development (HRD) Minister, Murali Manohar Joshi in the Country Paper presented in the UNESCO World Conference on Higher Education held at Paris, in 1998. He stated that it is both justified and desirable to ease the pressure on public spending by raising money from private sources.

Although the Bill could not be enacted, the central government adopted a policy of awarding the status of ‘deemed universities’ to private higher education institutions. Under the guidelines of the then HRD Minister, Murali Manohar Joshi, the de novo⁶ category of deemed universities were introduced in India.

5.2.8 World Bank Review (1995)

Another document titled Priorities and Strategies for Education: A World Bank Review, 1995 had far reaching effects on the Government of India and of the other developing countries. The document made some inherent contradictory statements. On one hand, The World Bank Review (as cited in Desai, 1998) stated that “rates of return on education are very high in low and middle income countries. Country circumstances differ, but, in general, in economies with less than universal basic education, rates of return are the greatest for primary education, followed by secondary and then higher education”. On the other hand the Bank document made an observation that “economies with universal primary education that have undergone rapid growth tend to show a higher rate of return to secondary than to primary education” (p.6). These contradictory statements of the World Bank make one thing clear- all the levels of education play complementary roles the national development. The World Bank remedy of serializing and phasing the education sector cannot be accepted in the present times, especially in the Indian context. To believe that higher education has higher private returns than social returns would not be appropriate as

⁶ As per the UGC (2000) guidelines, these institutions are those who had promise of excellence in ‘emerging areas’ but did not yet fulfill the guidelines. Hence they were given the status of deemed university for a period of five years after which they were subject to an annual performance review by a UGC appointed committee.
most of the achievements in our country can be credited to the educational system, and they made their significant contribution in technological, professional, business, civil, and defence services (Desai, 1998).

5.2.9 World Bank Report (1995)

The World Bank came out with its Report entitled *A New Vision for Education* in 1995. The report stated that the benefits of higher education are frequently received by young students from high income families. In order to create a favourable environment for institutions, the Bank proposed that creation of a state funding institutions of higher education, recovering costs of education from students through increase in fees, establishment of loans to students who want to continue higher education, giving autonomy to institutions, and establishing monitoring, accreditation, and evaluation mechanisms to verify their performance.

5.2.10 Discussion Paper on Subsidies (1997)

In many welfare societies as well as market economies, social and economic goods have been publicly subsidized. A subsidy implies a concession in taxes that may take the form of transfer payment. The purpose of subsidizing a good is to reduce its price so that it may be available to a large section of population. Gene advocated in case of ‘public good’ and ‘merit goods’ (Tilak, 2004). A subsidy ‘the private costs’ as well as the ‘institutional costs’ of education. Tapas (as cited in Khadria, 2010) explained that subsidization of private costs includes low-rental hostel accommodation, low-priced meals, free medical care, textbooks and equipment, cheap or free transport, stipends and scholarships to educational institutions imply providing grants to cover fixed and recurring costs.

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7 The economic definition of public goods are based on two core qualities: non-rival (one person’s use does not diminish another person’s use) and non-excludable (no person can be prevented from consuming the good). Because of the dual nature of public goods they cannot be provided by the market in a manner that reflects their true value to society. Public goods may also be provided by governments due to the even demand for them. Higher education has a significant amount of public good character about it.
Many arguments have been put forth in favour of public subsidization of higher education based upon social, political and theoretical rationales and a powerful economic logic. Firstly, it is viewed that higher education generates a wide variety and huge magnitude of externalities (Bowen, 1977; Friedman, 1962, Weisbrod, 1964) as education is a public good (Blaug, 1965, 1970; Levin, 1987; Tomlinson, 1986; Vaizey, 1962). The social benefits of higher education may include improvement in health income distribution, reduction in poverty, population growth and crime, rapid adoption of technology and research. Further, subsidy to higher education may even help in generating dynamic externalities (Lucas 1988; Romer 1986, 1990; Schultz, 1988) that are essential for economic growth, technical progress and arresting diminishing marginal returns. Secondly, the capital market for educational investment is both imperfect and incomplete (Arrow, 1993). This is because ‘human capital’ cannot be used as collateral in the capital market, as education gets embodied in the learner (Khadria, 2010). Thus, it may be difficult especially for the poor families to acquire a loanable fund for educational investment as the gestation period is relatively long and the benefits are uncertain. The lenders may thus be reluctant to risk providing loans to reluctant debtors having uncertain future incomes (Arrow, 1993) which may happen due to a number of reasons such as – a person becoming a drop out in education path or a particular skill losing its market value or becoming technologically obsolete (Majumdar, 1983). Thirdly, education is a merit good (Musgrave, 1959) whose consumption needs to be promoted. As people, the consumers of education may be ignorant of its benefits, or may not be able to forsee the benefits of investing in education it is necessary for the governments to provide public subsidization. In case of elementary education, this rationale forms the basis of providing free education to all the children in the required age group. Fourthly, subsidies in education are also considered to have distributional aspects of equalizing earnings especially making education more accessible to the lower strata of the society. Fifthly, education is subject to increasing returns to scale or economies of scale as average costs of education decrease, with increase in enrolments. If the government provides education free or at a price equal to marginal cost, then the government, as a monopoly can operate the education process more efficiently.

However, there are several counter arguments against public subsidization of education, in general and higher education, in particular (Tilak, 2004). Firstly, the
social rate of return is lower than the private rate of return to education, especially higher education (Psacharopoulos, 1994; World Bank, 1994). Secondly, public subsidization of education, particularly higher education, has pervasive distribution effect. It would be regressive in term of benefitting the poor as public subsidization would transfer the resources from the poor to the rich, thereby increasing income inequalities (Blaug, 1982, 1992; Jimenez, 1987; World Bank, 2000). Thirdly, it is argued that the governments in developing countries face a resource crunch. Hence subsidizing education may further add to deficits in resources. Fourthly, it is viewed that when heavy subsidization of education is done by the state, the educational institutions become more vulnerable to government control. Giving subsidies in the form of grants offers them no incentives to allocate the resources efficiently.

In May 1997, The Department of Economic Affairs (DEA), Ministry of Finance, Government of India came up with a Discussion Paper with intent to bring down drastically, the subsidies in higher education. The Paper was premised on three basic assumptions- firstly, “subsidies are advocated when social benefits of a particular service or commodity are greater than the sum of private benefits to the consumers”. Inoculation against infectious diseases, sanitation, environmental protection and basic education provide substantial social benefits and are merit goods hence should attract subsidy. Items such as “electricity, diesel, fertilizer, higher education” are placed as non-merit goods and services with respect to subsidies, because the economists believe that “there are normally no significant differences between private and social valuations in these areas” (Government of India, DEA, 1997, p.1-2). The second assumption of the Paper was that “poor design of a subsidy regime tends to make it difficult to ensure equity objectives…A significant proportion of subsidies in higher education is appropriated by the middle to high income groups” (ibid., p. 2). Finally, the third assumption was that “untargeted subsidies promote inefficiency and induce wastage of scarce resources” (ibid., p. 2).

The Paper divided many social and economic services into three categories—public goods (like defence and public administration that cannot be priced), merit goods or services (which include primary education, public health, social welfare schemes, sanitation) and non-merit goods (education beyond elementary level, i.e.
The Discussion Paper on Subsidies (as cited in Powar, 1998) reasoned that primary education is a ‘merit service’ because its benefits “spread well beyond the immediate recipients” while education beyond the elementary level is a ‘non-merit service’ because “benefits of subsidies accrue primarily to the recipients” (p.16).
i. Fees in institutions imparting technical education and affiliated colleges operating on ‘no-grant-in-aid’ shall be determined by State Level Committee

ii. Fees chargeable by institutions ‘deemed to be universities’ will be determined by Standing Committee of the UGC.

The Policy stated that fees once determined shall be in force for three years. Different rates of fees should be fixed for institutions falling in different classes, and for institutions located in rural areas. Fee should not become a source of profit or commercialization for the institutions concerned. Fee should be charged under two categories- tuition fee and development fee. Tuition fees should recover actual costs of imparting education. Suitable rates should be fixed for holders of free, payment and Non-Resident Indian (NRI)/foreign categories. The development fee should help in capital cost recovery to the management and serve as a source of upkeep and replacement. Furthermore, in the first ten years it would be open to the managements to appropriate up to half of the proceeds of the development fee or the actual capital costs, whichever be lower. The remaining half will have to be utilized for upgradation and replacements in the first ten years and thereafter the entire proceeds will have to be utilized.

The Policy stated as a general principle that fee structure should not promote commercialization or profit making by unaided private higher education institutions in the country. However, fixing of fees under ‘free’, ‘paid’ and NRI/foreign categories to recover actual and capital costs from students and furthermore, the appropriation of development fee by the management for a few years defies the general principle of the Policy. As Tilak (1994) explained that a seat which is much higher than the per capita national income of the country thus cannot be called ‘free’. The two categories of seats ‘free seats’ and ‘payment seats’ can be better termed as ‘low fees’ and ‘high fees’. The private sector should not guided by profit motive and they must not transfer their capital costs to the students. As for the recurring costs, only a part of these should be recovered from the students. The rest may be recovered from the sale of publications, sale of services of computers, consultancy of the faculty, rentals from guest houses/hostels for visitors’ interests from endowment funds and contributions from alumni (p.348-349).
5.2.12 Report of the Anandkrishnan Committee (1999)

A committee under the chairmanship of Dr. Anandkrishnan was constituted by the UGC in 1999 to review the maintenance grants norms for Delhi colleges. The committee suggested that the college fees related to essential academic functions and services such as tuition fees, library fees, laboratory fee etc. has been recommended based on the existing pattern of fees in various parts of the country, the escalating cost of education and the paying capacity of students and this group of fees shall be included as income in computing maintenance grants. Special fees related to extra-curricular activities as annual day, identity card, magazine etc. may be prescribed and collected by each college and this group of fees will not be included in the computation of maintenance grants. The committee also recommended to revise the development fee to, meet the actual recurring cost on no-loss-no-profit basis. In addition, it was suggested that the hostel fee should be utilized to meet the actual recurring cost and cover a part of capital cost, over a period of time. In due course of time, the government burden should be reduced by promoting funding from students. Thus, the recommendations of the Anandkrishnan Committee suggested greater and gradual reliance on shifting the cost of education on the students and their parents.


The UGC constituted a committee under the chairmanship of Dr. Mahmood-ur-Rahman in 2000 to formulate revised fee structure in central and deemed universities. The committee suggested that the level of fees charged by different universities for various courses is very low; hence it needs an upward revision. The Committee noted that higher education systems throughout the world are facing severe financial constraints due to mounting costs of higher education, reduction of philanthropic activities by society and the gradual withdrawal of support from the field of education. Educational institutions are thus looking for alternative sources of revenue and are also finding ways to reduce costs and analysis of expenditure on unit cost method.

The committee recommended that the affluent sections of the society should pay reasonable cost of higher education. Further, tuition fee would seek to recover actual cost of imparting education. All fees should be charged for 12 months. Modified cost method i.e. 3% of the unit cost worked out by Punnayya Committee
should be the basis of fee structure which may be increased every year to the extent of 2® of the suggested rate and after five years, the Commission may consider the entire issue again. Also, the Committee recommended that certain mandatory provisions be made to ensure that the revised fee structure being suggested by the Commission is implemented.

Thus, like the prior committees constituted by the AICTE in 1994 and the UGC in 1993, 1997 and 1999, the Mahmood-ur-Rahman Committee, 2000 made suggestions towards shifting the cost of higher education on the beneficiaries (students) through various resource mobilization devices.


In the executive summary of the Report, it was stated that human capital holds the key to persistent high growth in per capita income. The Report echoed the World Bank prescription of assigning focus on primary and secondary education by the governments in the face of financial deficits. It was suggested that privatization of higher and professional education could greatly help in reducing the burden from funding in these areas and exclusively focus on primary education to improve the literacy rates. To overcome the problem of financing of higher education, the Report suggested gradual withdrawal of subsidies from the higher education sector in India. It suggested the development of a credit market for higher education to finance the cost of education. Further, it recommended that user-pay principle should be enforced strictly for higher education supported by loan schemes as well as financial grants for economically and socially backward sections of the society. Besides, it suggested that the government should legislate a Private University Bill to encourage establishment of new private universities in the fields of science and technology, management and finance areas. In addition, foreign direct investment in education should be allowed.
Indian universities should be encouraged to attract overseas students. The report envisioned that India must create a competitive yet cooperative knowledge-based society and this revolution is possible if India embraces information and communication technologies, fosters freedom and innovation and induces a market oriented competitive environment.

Thus, the Ambani- Birla Report was an unparalleled example of reductionism, sanctioning the view that those who pay less, get less (Prasad, 2005). The report advised that the Government of India should allow leading business houses to establish universities and higher education institutions (Agarwal & Sharma, 2004). As a matter of fact, the Ambani- Birla Report duplicated the vision of the Discussion Paper on Subsidies (1997) in drastically reducing public subsidization in higher education (Joseph, 2004). Regarding the higher education system in India, Sharma (2005, 2007) indicated that the Ambani- Birla Report sought to convert the same into a profitable market. To quote Singh (2009), the Report “outlined the contours of educational development in the country as commensurate with the needs of emerging global economy on the one hand and those of local corporate sector on the other” (p. 149).


The World Bank came out with a Report in February 2000 titled Higher Education in Developing Countries: Peril and Promise. The Report began with an observation:

The world economy is changing as knowledge supplants physical capital as the source of present (and future) wealth. Technology is driving much of this process, with information technology, biotechnology, and other innovations leading to remarkable changes in the way we live and work. As knowledge becomes more important, so does higher education. Countries need to educate more of their young people to a higher standard—-a degree is now a basic qualification for many skilled jobs. The quality of knowledge generated within higher education institutions, and its availability to the wider economy, is
becoming increasingly critical to national competitiveness. This poses a serious challenge to the developing world. Since the 1980s, many national governments and international donors have assigned higher education a relatively low priority (World Bank, 2000, p. 9-10).

The Bank further remarked:

Higher education systems in developing countries are under great strain. They are chronically underfunded, but face escalating demand...Faculty are often under-qualified, lack motivation, and are poorly rewarded...Across most of the developing world, the potential of higher education to promote development is being realized only marginally (ibid., p.10).

The Report clearly stated that “the financing of higher education does not need to be limited to the public purse. In fact, higher education can be provided and financed either entirely publicly, or entirely privately (including by nongovernmental or by some combination of the two. Hybrid systems deserve serious consideration” (ibid., p.56). On the whole, it was suggested that public funding of higher education should be supplemented with maximum financial input of the private sector, philanthropic contributions and from students.

Thus, the World Bank in its Report Higher Education in Developing Countries: Peril and Promise (2000) deviated from the earlier stance that it took in the Report titled Higher Education: The Lessons of Experience (1994). The Bank had the onus of discouraging developing countries of the world to disinvest in higher education and focus on strengthening the basic education in the 1994 report.

But in the Report Higher Education in Developing Countries: Peril and Promise (2000) it shifted the blame on the governments in developing countries for assigning a relatively low priority to higher education. However, both these World Bank Reports stressed upon cost- sharing with students and the promotion of private higher education.


In an earlier World Development Report in 1998, the World Bank laid the foundation of *Knowledge for Development* (also known as Bank’s K4D programme) that emphasized on increased importance of knowledge to strengthen the socio-economic development of countries. The Bank’s Report *Constructing Knowledge Societies: New Challenges for Tertiary Education* (2002) endorsed the idea of development of ‘knowledge- based economies’ (ibid., xix) through appropriate planning and investment in human capital, effective institutions, information and communication technologies (ICT) and innovative and competitive enterprises.

The Report advocated the appearance of new providers of tertiary education in a borderless environment and the rise of market forces in tertiary education (ibid, xix). Thus, in the face of greater globalization and increased international competition, the Bank, through its Report provided a direction to the governments in various countries to generate an enabling framework to embrace new technology, encourage the private sector and look for non-public resources to generate new forms of finance (Roberston, 2009, p. 122-123).

5.2.17 UGC (Establishment and Maintenance of Standards in Private Universities) Regulations (2003)

Though the Private Universities (Establishment and Regulation) Bill, 1995 could not be enacted at the centre, several state governments⁹ initiated the establishment of private universities in their respective states, on their own. Many of the newly established private universities (especially in the Indian state of

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⁹ Many Indian states like Uttarakhand, Gujarat, Himachal Pradesh, Uttar Pradesh and Chhattisgarh went ahead with the establishment of private universities (Agarwal, 2009). Many southern and western states of India-Andhra Pradesh, Tamil Nadu, Karnataka, Kerala and Maharashtra witnessed a sudden proliferation of private medical and engineering colleges (Gupta, 2004).
Chhattisgarh) set up their off-shore centres and study centres outside the state (Agarwal, 2009). To put an end to the chaotic situation and rising malpractices, the UGC had to intervene and so through a gazette notification on December 27, 2003, the Government of India notified the UGC (Establishment and Maintenance of Standards in Private Universities) Regulations, 2003.

To explain the background of issue, the regulations stated:

> For private universities (that belong) to a separate category altogether, a suitable regulatory mechanism is essential by way of laying down the conditions specifically for the establishment and operation of such universities for safeguarding the interests of the student community with adequate emphasis on the quality of education and to avoid commercialization of higher education (Section 1.iv).

The Regulations stated that each private university shall be established by a separate State Act (Section 3.2), and that each private university shall be a unitary university having adequate facilities for teaching, research, examination and extension services (Section 3.2). A private university established under a State Act shall ordinarily function within the boundaries of the state in which it is established and shall be permitted (only in exceptional cases) to open off-campus centres, off-shore campuses and study centres, after five years of its establishment, only after the permission of the UGC (Section 3.3.1).

Thus, through these regulations the Government of India shifted the onus of establishment and regulation of private universities to the state governments without passing any central legislation (Singh, 2009).

### 5.2.18 Model Act for Universities (2003)

The Government of India through the UGC issued a Concept Paper in October 2003 entitled *Towards Formulation of Model Act for Universities of the 21st Century in India*. The Model Act was issued with the view “to prepare the Indian University system for the future.” The UGC (as cited in Sharma, 2012) in its concept paper noted, “Indian Universities, like their counterparts elsewhere in the world, have been
performing many additional functions now a days, e.g., undertaking sponsored Research and Development (R&D) and continuing education, providing knowledge-based advice and consultancy, preparation/publication of educational material like books/study reports/research papers and extending services to the society. Of late, the worldwide advances, particularly in new Information and Communication Technologies (ICT) are greatly influencing the university system in the country. However, major issues like size, access, equity, relevance, quality and resource constraints continue to dominate the working of Indian universities”. Therefore, the Model Act suggested that “the Acts of Indian Universities should be changed to bring in some uniformity in the working of universities” through a Model Act Framework so that the Universities accept “the challenges of globalization to offer high quality education and other services in a competitive manner”. The new common Act would enable the Indian Universities to “become competitive nationally and internationally” and help “India to become a Knowledge Super Power by the year 2020” (p.3-4).

Sharma (2007) opined that the Model Act was prepared “to actually implement the plan of commercialization of higher education as proposed by the Ambani-Birla Report” (p.7). Prasad (2005) presented a similar view asserting that both the Ambani- Birla Report of 2000 and the Model Act for Universities 2003 prepared by the UGC were “intended to restructure higher education on the model of market-oriented enterprises promoting corporate values” (p.47). “The vision and the strategy of the UGC was to prepare the Universities and institutions of higher education for privatization and commercialization, and to make them financially self-sufficient and respond to the market...All stakeholders, students, teachers, parents and people at large fought all over the country against such a draconian proposal”(Sharma, 2012, p.5).


The Department of Economic Affairs, Ministry of Finance, Government of India prepared a report entitled ‘Central Government Subsidies in India’ with the assistance of the National Institute of Public Finance & Policy in December, 2004. The report stated that the social services being associated with strong externalities and scale economies qualify for large subsidies in comparison to economic services. While human development is legitimately a major concern of the welfare state, it may
be necessary to re-assess policies in this area at the micro level to temper this concern with the equally legitimate concern for the burgeoning public expenditures. In the Report, the Government of India suggested a three-tier hierarchy of social and economic services in which it described school education as ‘Merit-I good’ while higher education as a ‘Merit –II good’. The third category was of Non –Merit good. It pointed out “While Merit-I goods deserve subsidization in varying degrees, Merit-I dominates Merit-II in terms of desirability of subsidization” (Government of India, 2004, Section 1.6, p.2).

5.2.20 Report of CABE Committee on Financing of Higher and Technical Education (2005)

The Government of India constituted the CABE Committee on Financing of Higher and Technical Education to examine the critical issues related to financing of higher and technical education in India. The Committee recognized the decline in state funding on higher education and recommended that both quantitative and qualitative expansion of higher education in India could only be achieved through enhanced public financing. It suggested that both the union and the state governments must make a firm commitment to sustained funding of higher education institutions in such a way that basic teaching, research and extension activities are not affected in their quality and quantum due to paucity of financial resources (CABE, 2005, p.45). The committee recommended that the total allocation to the education sector should be raised to the level of six percent of the GNP from the current level of about four percent. It was suggested that 50 percent, 25 percent, 25 percent of the total budget should be allocated to elementary, secondary and higher education, respectively. Further, 3 percent, 1.5 percent, 1 percent and 0.5 percent of GNP should be spend for elementary, secondary, general higher education and technical education, respectively (p.46).

Regarding cost recovery in higher education the committee observed that the rates of cost recovery in higher education were already fairly high in many universities. It suggested that a desirable upper level of all type of student fees may be 20 percent of the recurring requirements of the universities. The committee considered that revenue generation through student fees beyond 20 percent may
seriously affect access to higher education. Above rates of 20 percent cannot be uniform for all institutions (p.47).

The committee suggested there should be differential fees across central and state universities, general and professional institutions, under graduate and post graduate colleges. In addition it considered progressive taxation as a better option than progressive structure of fees (p.50-51). It also felt that charging high fee rates to foreign students may not necessarily generate huge funds for higher education institutions.

Regarding mobilization of additional resources, the committee proposed that universities might be encouraged to generate additional revenues from non-governmental sources without effecting equity, and other academic aspects of the higher education institutions. Besides, institutions of higher education may be encouraged forge close links with industry, mainly to improve academic relevance of the programs been offered by the universities (p.49).

The Committee further recommended that the overall role of the private sector in higher education should be limited and that the growth of self-financing courses in higher education institutions and private higher education institutions should be regulated to avoid vulgar forms of commercialization.

Thus, the report of the Committee realized the importance of public funding in higher education, reiterated the 6 percent allocation of GNP to education and discouraged the growth of the private sector in higher education.

5.2.21 Report of CABE Committee on Autonomy of Higher Education Institutions (2005)

The CABE was entrusted to examine in detail the issues related to autonomy of higher education institutions in India. Regarding financial autonomy, the committee suggested that institutions should have autonomy in deciding the fees structure for different courses in consultation with state government. The internal resources generated by institutions should be exclusively used for development purposes and should not be adjusted with any other grants provided by the government. The committee also suggested that in self-financing institutions/courses in government and government aided institutions, fees should be kept at levels which
meet the actual cost and create some reasonable surplus for developmental purposes. Institutions must have disclosure standards to contain malpractices in relation to fees.

Hence, the Committee advocated greater transparency in institutional autonomy for resource mobilization. It suggested a fee level in all the higher education institutions to be reasonably enough to meet actual cost of education, but not to make profits.

5.2.22 National Knowledge Commission (2007)

Under the Chairmanship of Sam Pitroda, the National Knowledge Commission (NKC) submitted its report to the Government of India on January 12, 2007. The report of this Commission is a “significant departure from the usual policy discourse” (Agarwal, 2007, p.555). The Report presented on almost all crucial aspects of higher education in India. It recommended increasing the Gross Enrolment Ratio (GER) to 15 percent. In addition, the Commission suggested enhanced public spending, financing through private participation, philanthropic and alumni contributions and industry linkages. It proposed the establishment of 1500 universities nationwide to reach the GER of 15 percent by 2015 (NKC, 2007, p.48). Both government and private universities at the national level should be established according to the Commission. These universities should be initially supported by the government through allocation of ‘public land’ in excess of its spatial requirement. The ‘excess land’ can be a subsequent source of income generation.

With reference to financing of higher education in India, the Commission recommended that the government should at least spend 1.5 percent of GDP from a total of 6 percent of GDP for education (ibid., p.44). However, it also suggested that other possibilities to complement increase in public expenditure should be explored. Fees should be raised and should meet at least 20 percent of the expenditure of universities. In addition, fees should be adjusted every two years through price indexation. Universities should have the autonomy to set student fee levels and tap other sources for generating funds (p.56). However, needy students should be provided with a fee waiver and scholarships to meet their education cost. It also suggested the need to stimulate private investment (not for-profit) in education to extend educational opportunities (p.48). Various public–private partnership models in
higher education should be explored where land grants should be given by the government to attract more (not for-profit) private investment (p.57).

On regulatory framework in India, the Commission made suggestion for the establishment of an Independent Regulatory Authority for Higher Education (IRAHE). In his letter dated 29th November 2006, to the Prime Minister of India, the Chairman of the Commission wrote:

> The present system in higher education is flawed in important respects. The barriers to entry are too high. The system of authorizing entry is cumbersome. There is a multiplicity of regulatory agencies where mandates are both confusing and overlapping. The system, as a whole, is over-regulated but under-regulated (NKC, 2007).

Thus, for effective regulation of higher education the NKC proposed that the IRAHE should be at an arm’s length from the government and all the stakeholders, the role of the UGC should be redefined, and, limiting the role of the existing regulatory bodies like the All India Council of Technical Education (AICTE), Bar Council of India (BCI), Medical Council of India (MCI) and National Assessment and Accreditation Council (NAAC) as professional associations. The Commission also proposed salary differentials within and between the universities. It felt that practical ways of attracting and retaining talented faculty have to evolve by universities to compete among themselves to rope in talented people.

The NKC report received mixed responses from the academia. There are arguments as well as counter arguments presented through logical analysis on its various recommendations. In support of the proposals of the National Knowledge Commission, Agarwal (2007) opined that the report “provides a good analysis of the deep crisis in higher education in India. It gives a broad direction for reforms and has the potential of becoming a base document for devising a policy for higher education...The report has many useful ideas for reform” (p. 557). However, regarding the establishment of an IRAHE, Agarwal (2009) pointed that “as the continuation of the UGC is an anachronism today so would be the setting up of the IRAHE” (p.349). Anandkrishnan (2007) felt that though the Report of the NKC had
made recommendations on expansion, governance, financing and curricular reforms, it failed to address important issues such as “regional imbalances, uni-disciplinary universities, resistance to the credit system and the proliferation of a substandard distance education system” (p.557).

Srivastava made his observations and stated “The NKC has assiduously avoided a discussion of the private sector in higher education” (Srivastava, 2007, p.815). He further remarked that the private for-profit or self-financing institutions which charge commercial fee rates and capitation fee have made a marked presence in the higher education of India. These institutions do not adhere to a transparent admission procedure. Developing a regulatory framework for both public and private higher education institutions and also the foreign universities needs to be strengthened. The proposal of establishing an independent IRAHE “does not appear to be a move in the right direction” (ibid.).

Sharma (2007) considered that the prescriptions made by the NKC Report are “elitist” and “no different than those provided by the infamous Birla-Ambani Report, the Concept Paper for the Model Act for all the universities” and are “retrograde recommendations which will lead to privatization and commercialization of higher education in India” (p.21). On a similar note, Patnaik (2007) held the view that the proposals made by the NKC envisaged substantial privatization of higher education in India. Tilak (as cited in Kaul, 2011) noted that the commission favoured privatization of universities by establishment of private universities and enabling public-private partnership in higher education (p.24).

5.2.23 Report of the UGC Committee to Review the Pay Scales and Service Conditions of University and College Teachers (2008)

The UGC appointed a pay review committee on 6th September, 2007 to review the pay scales and service conditions of teaching faculty in universities and colleges. The Report was submitted by Professor G.K. Chadha, Chairman of the Committee in October, 2008. The major recommendation of the pay review committee was that if the pyramidal edifice of higher education needs to be strengthened both at the base and at the top level in terms of quantity and quality-simultaneously- then the right solution lies in not only recognizing the pivotal role of the teaching community in the process but also in rewarding them with suitable incentives.
The Committee suggested that intensive efforts need to be made to attract more and more bright and qualified young men and women to college and university jobs and they must be made to feel assured that a career in teaching is ‘not that bad’. It was suggested that there must be improvement in the service conditions that must become immediately discernible to a new job entrant. The Committee recommended increase in the span of working career of the teachers. ‘Mature teachers’ should be retained and prospective teachers must be provided with ‘appealing packages’ at the entry point.

The Committee recommended the central government to provide more funds for education in general and higher education in particular. State governments were urged to play their role more decisively and comprehensively. Teachers were suggested to play their role with full commitment, responsibility and transparency.

Indicating towards the proliferation of shoddy fly-by-night colleges, the Committee remarked that this is a proverbial fetter on the educational map of India. The crushing faculty shortage, partially due to the questionable policy of keeping faculty positions unfilled, has added its own share to the deterioration in quality of teaching. The Committee found that in 47 universities spread across 19 Indian states, 51.36 percent teaching posts were lying vacant in universities for the academic session 2007-08. The Committee recommended that pay of teachers should be maintained at parity with the corporate sector. By offering competitive salary to teachers, the flight of human resources from education to profitable private sector can be checked. Finally, it was also suggested that university faculty and college faculty should not be differentiated in terms of norms of recruitment, pay scale, allowance and perks, incentives to do research and the criteria to evaluate performances.

Thus, the UGC pay review committee carved a roadmap for quality enhancement in higher education through encouraging academically bright aspirants to enter the teaching profession, by making it more competitive, supportive, humane, insightful, appreciative and performance based and additionally more lucrative. The uniformity of pay- scales between university and college teachers was certainly a way, as Patnaik (2011) puts it “to draw outstanding talent into the academic profession” (p.206). Any differential pay-scales for teachers in the same categories, would not introduce excellence, but would destroy collegiality among the faculty and
introducing a further caste structure (based on high and low salary) within the faculty members and contribute towards ‘commoditization’ of higher education (ibid., p.205).


The Government of India constituted a Review Committee in February, 2008 under the Chairmanship of Professor Yash Pal to review the role of statutory bodies like the UGC and the AICTE in the context of changes in higher, professional and technical education in India and demands of a new knowledge economy. The Committee came out with its Report entitled Report of the Committee to Advise on Renovation and Rejuvenation of Higher Education in 2009.

Regarding the role of state in higher education, the Committee noted that the state has to consider higher education as a national responsibility and hence make necessary provisions to realize its potential (Report of the Committee to Advise on Renovation and Rejuvenation of Higher Education, 2009, p.11). Regarding expansion of higher education in India, the Committee observed that the same has taken mainly through private investment while the successive governments have been reducing investment in higher education. The number of private universities and deemed universities have grown over the years and there is growing demand for their expansion (ibid., p.29).

The Commission cautioned:

The implications of the increasing trend towards privatization of higher education need to be understood in terms of the system’s enrolment capacity, programme focus, regional balance, and ownership pattern, modes of delivery, and degree of regulation, quality and credibility as well as social concerns of inclusiveness (p.29).

The Committee also suggested that large and better affiliated colleges should be granted independent status from the processes of the affiliating university. This would ‘lighten the load’ of the affiliating universities, enabling them to maintain quality (p.31).
With reference to the growth of private commercial providers, on one hand the Committee indicated that “there has been no policy or guidelines to measure the competence of private investors. The trusts or societies that have been formed largely consist of immediate family members—some of whom have little or no educational background—with some exceptions” (p.32). To generate funds, these family trusts and societies charge “capitation fees from students in addition to a plethora of unexplained fees charged whimsically by these managements” (p.33). On the other hand, supporting privatization it mentioned that the whimsical rules and regulations of regulatory bodies have deterred many ‘respectable investors and philanthropists with noble motives’ to establish higher education institutions. Furthermore, the government can only enhance access and expansion of higher education through encouraging participation of the private sector (p.32). The Committee indicated these commercial private providers appoint teachers at the lowest possible salary and treat them with scant dignity. Often, the faculty receives salary that is much less than the amount signed for. Thus, there is a need to evolve a transparent regulatory mechanism and modify the legal framework for ensuring that the private institutions do not turn into commercially viable sectors of education (p. 34-35). Concerning the deemed universities, the Report was critical about their increase in number, especially the denovo kind. It was recommended that granting of such status should be put on hold till unambiguous and rational guidelines are evolved (p.37). On the issue of affordability, the Report made an observation that many private institutions charge exorbitant fees (beyond the prescribed norms). In addition, the norms for fee fixation are vague and the quantum of fees charges has no rational basis. It is necessary that education should be made affordable through assured loans and providing scholarships based on merit for the needy students (p.38-39).

Vis-à-vis foreign universities in India, the Report cautioned that “before allowing foreign universities in India, we have to be clear on the purpose it is going to achieve”. Allowing all and sundry providers who carry a foreign ownership tag but may not be known in their own countries would earn profits for their parent

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10 Later in the year 2010, the UGC came up with the UGC (Institutions Deemed to be Universities) Regulations, to regulate in an orderly manner the process of declaration of institutions as deemed to be universities, preventing dubious quality institutions to be declared as deemed universities and to maintain quality of higher education offered by these institutions.
institutions or the shareholders (p.40). Finally, the Report observed that a designed regulatory system needs to be evolved in higher education to ensure an overarching, transparent, and accountable framework. The Commission proposed the establishment of a De-Novo regulatory body, known as the National Commission for Higher and Research (NCHER), which should be established in India (p.50-55).

5.2.25 Committee on Corporate Sector Participation in Higher Education (Report of Narayana Murthy Committee) (2013)

The Narayana Murthy Committee (NMC) was constituted in January 2012 by the Planning Commission, under the chairmanship of N R Narayana Murthy, to recommend possibilities and modalities for the corporate sector participation in the expansion of higher education and research in India. The committee consisted of individuals from a wide range of organizations. The genesis of the Report was the Consolidated Working Group Report of the department of higher education, India (Planning Commission, 2012). The Planning Commission of India officially released the NMC Report on Corporate Sector Participation in Higher Education (Mathews, Chittupara, & Dey, 2013).

The recommendations of the NMC (as cited in Mathews et al., 2013) were centered around three core areas—"an enabling environment to attract investment, support for research and faculty development, and corporate investment in institutions and creation of new institutions and knowledge clusters"—and recommended that universities set up by the corporate sector should be exempted from taxes and given free land. It also recommended that the corporate sector should be given autonomy in charging fees. In addition, it held that the corporate sector should be provided with administrative and academic autonomy to establish world-class higher education institutions in India. This is the Commission felt that the corporate sector had the potential to create global institutions. Stating in its report, the Commission recommended, “to send a signal...contributions are welcome...and a commitment from the corporate sector to contribute..."
individual for the institution to be in the top 250 in the world, over a 15 years period” (Government of India, 2012, p.14). Furthermore, it suggested fiscal incentives to the corporate sector. It proposed institutions, private universities with central university status and Public-Private Partnership (PPP) universities that would add to the diversity of the market. It suggested that foreign faculty should be recruited with the Indian faculty in the institutions established by the corporate sector. However, Pathak (2014) argued that “the engagement of the corporate sector would accelerate rise in cost of access to education…engaging corporate sector in higher education can be understood as engaging private corporate sector in higher education…autonomy, a double edged sword, may either encourage excellence or lead to the proliferation of substandard but expensive education…the NMC seems to be dreaming of a utopia for achieving excellence. Its recommendations or formulae appear to treat higher education institutions like factories” (p.73). Jongbloed (2004) had enumerated four freedoms of the market- entry, product specification and quality, resource utilization and determination of price. Pathak (2014) opined that these market freedoms can be traced in the NMC recommendations in the form of simplification of rules to create new universities (entry), autonomy to choose inputs and students (product specification and quality), autonomy in use of land and other resources (resource utilization) and autonomy to decide the fee (determination of price). Finally, Mathews et al. (2013) put forth the issue that where a majority of private higher education institutions in India aimed at profiteering, how far industrial houses would be able to develop social sensitivity in providing higher education in India through the PPP model? The value of the Indian model of corporate social responsibility should thus be measured and promoted in academic and not commercial terms.

5.3 HIGHER EDUCATION IN FIVE YEAR PLANS

After Independence, the Indian economy committed itself to develop through planning in various sectors. The Planning Commission was set up in March, 1950 by a Resolution of the Government of India for achieving the aforesaid purpose. It envisages, formulates and monitors the execution of the Five Year Plans that are made for the most effective and balanced utilization of the country's resources, to promote a rapid rise in the standard of living of the people of the nation, to increase production, and to offer opportunities to all for employment in the service of the community.
Since 1951, the Government of India, through the Planning Commission has been drafting as well as executing five year plans by outlining general proposals and policies in each field of development. For the planned development of the nation, education holds a basic importance. Various five year plans have identified thrust areas for development of education in India as a whole, and at various level of education, in particular. In this section, the main proposals of the various five year plans (post 1991 economic reforms) regarding higher education in India have been offered as well as analyzed.

5.3.1 Eighth Five Year Plan (1992-1997)

The Plan identified several weaknesses in the higher education system in India such as proliferation of substandard institutions, disparities in the quality of education and lack of adequate support for research. The thrust areas for improvement that were identified, included: (i) integrated approach in higher education, (ii) excellence in higher education, (iii) expansion of education in an equitable and cost-effective manner, in the process making the higher education system financially self-supporting; (iv) making higher education relevant in the context of changing socio-economic scenario (Planning Commission of India, Eighth Five Year Plan, Section 11.7.1). The plan laid emphasis on strengthening and expansion of distance education system to provide higher education opportunities to people in a cost-effective manner.

5.3.2 Ninth Five Year Plan (1997-2002)

The Plan identified that the higher education system in India suffered from deterioration in quality, the resource crunch leading to poor infrastructure and the serious problems of governance (Planning Commission of India, Ninth Five Year Plan, Section 3.3.10). The Plan stressed on expansion of education for women and the disadvantaged groups, using financial assistance as a leverage to secure better performance of the system, updating of syllabi to enhance their relevance and also improving the internal resource generation (Section 3.3.11). Regarding resource mobilization, the Plan suggested restructuring of fees based upon unit cost criteria and the socio-economic background of the student, encouraging public funding through contributions from various government departments and the community, and finally,
encouraging contributions from industrial establishments for sponsored research projects (Section 3.3.82).

5.3.3 Tenth Five Year Plan (2002-2007)

The Plan observed financing of higher education to be a critical issue and indicated that the fee structure in the universities is abysmally low and has remained static for more than three decades. Thus, the universities must make an effort to rationalize the fees and attempt greater generation of internal resources. The Plan suggested hike in fees, receipt of contributions, donations, gifts, and sponsorships from the alumni, trusts, private sector and industries as sources of resource mobilization (Planning Commission of India, Tenth Five Year Plan, Section 2.5.11, p.55). Further, it suggested incentives for those universities and colleges that make an effort to increase/raise internal resources (Section 2.5.16, p.56). The Plan encouraged the foreign direct investment in education sector by entrusting the responsibility on the Committee on Promotion of Indian Education Abroad (COPEIA) to monitor all activities aimed at promoting Indian education abroad and also to regulate the operation of foreign educational institutions in India (Section 2.5.19, p.56). The UGC identified five priority sectors (viz. development, access and equity, promotion of relevant education, quality and excellence, and strengthening of research) to improve the present condition of higher education in India during the Tenth Plan period (Ahmad, 2010).

5.3.4 Eleventh Five Year Plan (2007-2012)

The Eleventh Five Year Plan (2007-12) often described as an “education plan” and also as a “quality plan for the education sector”, proclaimed “inclusive growth” as its main objective (Tilak, 2010, p.60).

In the Approach Paper to the Eleventh Five Year Plan, the Planning Commission emphasized that the Plan should focus on empowering people with skills and knowledge and access to productive employment in the future (Planning Commission, 2006, p.45). The Eleventh Five Year Plan focused on expansion, inclusion, and rapid improvement in quality in higher and technical education by

The Committee on Promotion of Indian Education Abroad (COPEIA) was constituted by the Government of India, in April 2002 under the chairmanship of Secretary, Department of Secondary & Higher Education (ibid.).
enhancing public spending, encouraging private initiatives, and initiating major institutional and policy reforms (Planning Commission of India, Eleventh Five Year Plan, Section 1.3.3, p.22). As observed in their article, Sikdar and Mukherjee (2011) stated that the Eleventh Plan made concerted efforts towards expansion of access to higher education.

The Plan considered the increase in the share of private unaided higher education in India during the period 2001-06, as ‘a welcome development’. It announced that “this trend is likely to continue in the Eleventh Plan and therefore, it is reasonable to expect that about half of incremental enrolment targeted for higher education will come from private providers” (Section 1.3.7, p.23). Even, the Mid-Term Appraisal of the Eleventh Plan called for large scale privatization of education in higher education and even, elementary education (Tilak, 2011, p.18). The Plan suggested various ways of resource mobilization by higher education institutions, such as user fees, review fee structures, consultancy services, and donations. Regarding the fee structure, the Plan asserted that the governing bodies of higher education institutions should be left free to rationalize their fee structures according to the degree of excellence achieved both in terms of academic achievement and market value, keeping in mind the overarching principle of equity (Section 1.3.7, p.25-26).

The Eleventh Plan made concerted efforts towards expansion of access to higher education.

5.3.5 Twelfth Five Year Plan (2012-2017)

Even before the Indian economy entered the Twelfth Plan, Ahluwalia (2011) suggested that the government must deploy its own resources with a clear sense of priority in education. With regard to higher education, the Plan identified its critical role in “developing a modern economy, a just society and a vibrant polity” and remarked that higher education is the principal site at which our national goals, developmental priorities and civic values can be examined and refined” (Planning Commission of India, Twelfth Five Year Plan, Section 21.180, p.89). With reference to financing of higher education in India, the Plan suggested a quantum leap in both public and private sector in higher education (Section 13). Realizing the contribution of the private sector to higher education in the Eleventh Five Year Plan, the Twelfth
five year plan recommended providing greater encouragement to the private sector to establish larger and higher quality institutions.

The Plan proposed to re-examine for pragmatic considerations, the entry of for-profit institutions in select areas where acute shortages exist. However, these institutions should be subject to necessary oversight and accreditation arrangements to ensure quality and equity. For-profit private higher education can be taxed and the revenue from it can be channeled into large scale scholarship programme to promote equity (Section 21.215, p.100). Besides, innovative ways must be found to encourage private capital in traditional not-for-profit higher education through incentives such as liberal financing options, changing the legal status of the sector and giving priority recognition to the sector (Section 21.216). It was suggested that the government should support non-profit private institutions. Furthermore, the corporate sector should be involved in higher education for skill development and management. The plan recommended new models of private-public partnership (PPP) in higher education. However, Tilak (2008) argued that such models of public-private partnership in education “do not necessarily work in the area of education for the benefits of the larger society” (p.55). The Plan suggested that the current regulatory framework needs to be revamped (Section 21.219, p.101).

In regard to the public funding, the Plan recommended that both the Central and the state governments should enhance their funding to the higher education sector (Section 21.322, p.101). For resource mobilization, it was suggested that many central universities have not raised their fees for decades. Since low fee is not sustainable and is in fact regressive Central and State Governments should also be encouraged to raise fees to reasonable and sustainable levels (Section 21.324, p.119). They should be encouraged to seek funding from diverse stakeholders through external contracts/grants for research, consulting and/or training projects (Section 21.324, p.120).

5.4 JUDICIAL ACTIVISM IN HIGHER EDUCATION

The Supreme Court of India has played a decisive role in challenging the education policies and decisions of the government and adjudicated on different aspects that have a bearing on shaping the policy discourse in higher education in India, in the post economic reforms period. However, the apex court has been giving
conflicting judgments especially regarding the nature and role of private sector in higher education. These contradictory judgments have added to the prevailing confusion in the system of higher education (Gupta, 2004). This section of the chapter presents an overview of the most important judgments of the Supreme Court of India in cases that have a direct bearing on the higher education system in India.

5.4.1 St. Stephens College versus University of Delhi Case (1992)

The historic judgment of the Supreme Court in St. Stephens College versus University of Delhi Case in 1992 ruled that “the educational institutions are not business houses and they do not generate wealth” (Sharma, 2005, p.68).

5.4.2 Mohini Jain versus State of Karnataka Case (1992)

In a petition filed by under Article 32 of the Constitution of India, Ms. Mohini Jain, a resident of Meerut, Uttar Pradesh, challenged the notification of Karnataka government permitting private medical colleges in the state to charge high tuition fee from students of other states. In its judgment, the court discussed the various constitutional provisions like Article 21 (Right to Life), Article 38 (State to secure a social order for the promotion of welfare of the people), Article 39 (a) and (f) (certain principles of policy to be followed by the state), Article 41 (right to work, to education and to public assistance in certain cases), and Article 45 (provision of free and compulsory education for children); and considered the constitutional validity of capitation fee.

The Mohini Jain versus State of Karnataka case judgment given on July 30, 1992 is a historical one, as the apex court held the capitation fee demanded by private institutions as illegal (Powar &Raju, 2004). As Sharma (2007) puts it, “the exorbitant fee demanded was in reality a capitation fee with a different tag” (p.12). However, with respect to fee differentiation, the apex court held differentiation on the ground of residence valid, but that fees cannot be different (Powar &Raju, 2004).

5.4.3 J.P. Unnikrishnan and Others versus State of Andhra Pradesh Case (1993)

In another landmark judgment in Unnikrishnan and others versus State of Andhra Pradesh Case on February 4, 1993, the Supreme Court seemed “to have taken a U-turn on its previous stand” (Tilak, 1995, p.224) when the petitioners challenged
the decision regarding charging of fees as given in the Mohini Jain case. The petitioners were engaged in imparting medical/engineering education in the States of Andhra Pradesh, Karnataka, Maharashtra and Tamilnadu. They argued that if the \textit{Mohini Jain case} were fully implemented they would have no choice but to close down their institutions. All these states had relevant Acts pertaining to the prohibition of capitation fee, but allowed the institutions to discriminate among the students through a management quota. All these Acts were questioned by the petitioners through this writ petition (Powar & Raju, 2004).

While giving judgment, the Court opined, “Education has never been commerce in the country. Making it one, is opposed to the ethos, tradition and sense of this nation” (The Supreme Court Judgment, 1993, Para 64). Hence, the Court sought to regulate high fee charging private colleges, popularly known as the capitation fee colleges and ruled that the capitation fee is patently unreasonable, unfair and unjust, and unconstitutional (Singh, 2009, p.159). The Court held that fifty percent of the seats in every professional college should be filled by the nominees of the government or university, selected on the basis of merit determined by a common entrance test. These seats would be refereed as “free seats”. The rest of the fifty percent seats, known as “payment seats” should be filled by those who pay the prescribed fee and on the basis of inter se merit determined on the same basis as in the case of free seats.

The Supreme Court judgment in \textit{Mohini Jain versus State of Karnataka} case had almost prohibited capitation fee, declaring the capitation fee as \textit{ultra vires}, but the judgment of \textit{Unnikrishnan and others versus State of Andhra Pradesh} Case practically provided charging fees much above Rs. 1 lakh per student per year (Tilak, 1994). Further, it is arguable that higher professional education is not provided free, since even elementary education in India that is required to be provided ‘free’ for all, is not provided free (Tilak, 1995, p.225). Actually, “the Supreme Court 1993 judgment \textit{de facto} legalized the capitation fee phenomenon in higher professional education in the country” (ibid., p. 224). Sharma (2005) felt that “the judgment enabled the growth of capitation fee colleges in the name of self-financing colleges” (p.69).
5.4.4 T.M.A Pai Foundation and Others versus State of Karnataka and Others Case (2002)

On October 31, 2002, an eleven-judge Constitution bench of the Supreme Court headed by Justice B.N. Kirpal, Supreme Court of India in T.M.A Pai Foundation and Others versus State of Karnataka and Others Case held the Unnikrishnan scheme to be unconstitutional on two grounds. Firstly, it was felt that the scheme violated the right of private, unaided institutions to set their own criteria of admission; and secondly, the Supreme Court (as cited in Sharma, 2007) “while upholding the principle that there should not be capitation fee for profiteering, argued that “reasonable surplus to meet the cost of expansion and augmentation of facilities, does not however amount to profiteering”. Further, the restrictions on fees and the admission proposed in the Unnikrishnan case prevented the accumulation of ‘reasonable’ surplus” (p.12).

Powar & Raju (2004) while summarizing the principles laid by the Court in the case, explained that the judgment considered the application of rules and regulations framed by the state governments for government aided professional colleges on unaided counterparts, to be unfair. The court entitled the unaided professional colleges to exercise their autonomy in administration and reserve a certain percentage of seats for admission by the management out of those students who cleared the common entrance test held by itself or by the state university. It also proclaimed that a different set of seats could be fixed for minority and non-minority unaided professional colleges. Chandrasekhar (as cited in Sharma, 2009) held the view that the Supreme Court judgment had “far-reaching implications for the overall ability of the state to regulate privately provided educational services and therefore for the ongoing processes of privatization of education in India” (p.160).

5.4.5 Islamic Academy of Education versus State of Karnataka Case (2003)

The Supreme Court judgment in 2003 in Islamic Academy of Education versus State of Karnataka Case tried to interpret and clarify a number of questions emanated from T.M.A Pai Foundation judgment. “Its order was described by the private colleges as reincarnation of the dead Unnikrishnan scheme” (Sharma, 2007, p.12). The Court re-affirmed the judgment in the T.M.A Pai Foundation Case that merit would be the first criterion for imparting professional education. Furthermore, the
judgment also clarified that the government could not prescribe a rigid fee structure and that every institution had the right to fix fees according to the costs. The institutes also had the freedom to generate profit for the betterment and growth of institutions. However, the Court committed to take a tough stand against capitation fee and profiteering by private professional colleges (Gupta, 2004; Powar & Raju, 2004).

5.4.6 P.A. Inamdar & others versus State of Maharashtra Case (2005)

A seven-judge bench of the Supreme Court delivered its verdict in P.A. Inamdar & others versus State of Maharashtra case on 12 August 2005. It held that neither the government has a right to ask for government quota in unaided private professional educational institutions, nor can it compel the institutions to implement the state’s policy on reservation. The court further held that every unaided private professional institution is free to devise its own fee structure; but profiteering and capitation fee are prohibited. Besides, the Court allowed up to a maximum of 15 percent of the seats for NRIs or as management seats. Sharma (2005) pointed out that “this is a virtual endorsement of giving a legal license for converting education into a commodity that can be sold in the market to those who can afford it” (p.69).

5.4.7 Prof. Yash Pal & Others versus State of Chhattisgarh Case (2005)

In the Prof. Yash Pal & others versus State of Chhattisgarh case, the Supreme Court passed a verdict and ordered the closing down of a number of private universities functioning in the Indian state of Chhattisgarh by quashing the provisions under the Chhattisgarh Private Universities (Establishment and Regulation Act, 2002, that allowed the establishment of 112 private universities through a gazette notification by the state government. The Court struck down the State Act as ultra vires the Constitution of India. It directed the universities so created, could be considered for affiliation with existing universities in the State.

Thus, the numerous judgments of the Supreme Court of India played a vital task in shaping the higher education in India during the post economic reform period.

5.5 BILLS ON HIGHER EDUCATION

The Ministry of Human Resource Development (MHRD), Government of India, tabled a number of bills related to education that are awaiting a nod for
approval from the Parliament. These Bills were introduced during the Eleventh Five Year Plan period (2007-2012) to set forth a reform agenda in higher education based on the recommendations of the National Knowledge Commission, 2007 and the Yash Pal Committee, 2009. These bills have received variegated opinions regarding their approval or rejection. The present section of the chapter briefly analyzes and throws light on the statement of object, key features, strengths and weaknesses of these bills on higher education.

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

The Bill was introduced in the Lok Sabha on May 3, 2010 to make provisions for assessment of academic quality of higher educational institutions, programmes conducted therein and their infrastructure through mandatory accreditation. According to the statement of objects and reasons of the Bill, “assessment and accreditation in higher education, through transparent and informed external review process, are the effective means of quality assurance in higher education to provide a common frame of reference for students and others to obtain credible information on academic quality across institutions, thereby assisting student mobility across institutions, domestic as well as international”. According to the Bill, “mandatory accreditation in higher education would require a large number of competent and reliable accrediting agencies to be recognized, monitored and audited for academic competence through an independent but accountable institutional mechanism”. In addition, it was proposed that “registered agencies would accredit higher education institutions through transparent processes”.

The Bill proposed the establishment of an independent regulatory authority to be known as National Accreditation Regulatory Authority for Higher Educational Institutions. This regulatory body would be entrusted the responsibility to register, monitor and audit the functioning of the accreditation agencies which would be invested with the responsibility of accrediting higher education institutions. Furthermore, every higher education institution, existing before the commencement of this Act, will have to apply for accreditation, within a period of three years (for medical colleges it would be five years) from the date of its commencement. Gandhi (2013) supported the enactment of the Bill and felt that mandatory accreditation would help in quality assurance of higher education system in India. Further, he
pointed out that “the Bill allows only the government controlled agencies to accredit higher education institutions. Under the Bill, private players cannot register as accreditation agencies” (p.92).

5.5.2 The Educational Tribunals Bill, 2010

The Educational Tribunals Bill was introduced in the Parliament on May 3, 2010 to establish educational tribunals at the national and the state levels for effective and expeditious adjudication of disputes in the higher education sector. According to the statement of objects and reasons of the Bill, “rapid growth in the higher education sector has resulted in increased litigation involving students, teachers, employees, managements of higher educational institutions and universities and others. There is an urgent need to provide a mechanism for speedy resolution of their disputes to maintain and to improve the quality and efficient functioning of institutions of higher education”. The Bill proposed the establishment of a National Educational Tribunal and State Educational Tribunals in every state of India.

Sharma (2010), however, held the view that the enactment of the Educational Tribunals Bill is authoritarian and would be a grave injustice to students. This is because the Bill accords the national as well as state tribunals the powers of a civil court and can punish anyone who fails to comply with their orders. The bill does not spell out the kinds of problems and disputes facing students on which the tribunals would adjudicate. The term ‘unfair practice’ has not been defined in the Bill. The Bill seeks to set up an alternative dispute redressal mechanism and denies people of their constitutional right to move to a court of law. Further, the Bill would centralize the whole system of redressal as it entrusts the national educational tribunal to exercise its administrative control over the state educational tribunals.

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

The Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010 envisages to bring the private higher educational institutions under social control through an enabling legislation. According to the statement of objects and reasons of the Bill, “there is a public concern that technical and medical higher education institutions and
universities should not resort to unfair practices, such as charging of capitation fee and demanding donations for admitting students, not issuing receipts in respect of payments made by or on behalf of students, admission to professional programmes of study through non-transparent and questionable admission processes, low quality delivery of education services and false claims of quality of such services through misleading advertisements, engagement of unqualified or ineligible teaching faculty, forcible withholding of certificates and other documents of students”.

Nonetheless, the Bill is silent on many issues that have been mentioned in the statement of objects and reasons but are missing in the main body of the Bill (Sharma, 2010). Though, the Bill places the responsibility on private institutions to give detailed information through their websites and prospectuses six months in advance in relation to fees and other charges, admission process, number of seats, eligibility criteria, teaching faculty, infrastructure etc., it does mention anywhere that the institutions have to project the details in accordance to some statutory norms. For instance, it is enough for an institution to declare the fee, howsoever exorbitant it might be. In addition, the Bill does not speak of penalty on unrecognized institutions that mislead students. The proposed bill is highly inadequate to tackle the corrupt practices in educational institutions and in many ways threatens to promote commercialization of higher education (ibid.).

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

To evolve a regulatory framework for the foreign educational institutions in India, various recommendations were made by the All India Council for Technical Education (AICTE) Regulations (2005) and the CN Rao Committee (2006). Base

13 According to the AICTE Regulations for Technical Institutions of Foreign Providers (2005), applications from foreign providers had to be accompanied by a No-Objection Certificate from concerned Embassy in India. Further, the institution was to partner with existing AICTE approved domestic institutions. The fee and intake of students in these foreign institutions, for each course was to be prescribed by the AICTE (Shah, 2010).

14 The CN Rao Committee (2006) for general higher education disallowed franchising and offshore study centres, repatriation of profits to parent institutions and poaching of faculty from Indian institutions. Regarding essential conditions for entry of foreign education institutions in India, the Committee mandated that foreign institutions should be registered as deemed universities under the UGC. It suggested that substantial security deposit should be forfeited if the institution closes. Further, it recommended that twinning programmes could be started with existing Indian institutions (ibid.).
on these recommendations, the Government of India drafted the Foreign Educational Institutions (Regulation of Entry and Operation, Maintenance of Quality and Prevention of Commercialisation) Bill, 2007. The Bill was placed before the parliament for its approval. The Bill was discussed in many forums and then modified as the Foreign Educational Institutions (Regulation of Entry and Operation) Bill, 2010 and presented again before the Parliament on May 3, 2010. In its statement of objects and reasons, the Foreign Educational Institutions (Regulation of Entry and Operation) Bill (FEIB) stated that “a number of foreign educational institutions have been operating in the country and some of them maybe 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 commercialization”.

However it is argued that the Bill demands scanty requirements of a foreign education provider as the existing foreign education institutions (FEI) have to apply within six months of the commencement of the Act. These FEI’s will have to maintain a corpus fund of not less than 50 crores and should be offering educational services for at least twenty years under the law of the country in which such institution is established or incorporated and registered. Besides, the penalty on the FEI in case of violation of provisions of the Act is meager. As a matter of fact, the bill is an instrument to kill our system of higher education and hence it should be rejected. If not done so, it would promote gross commercialization of higher education (Sharma, 2010). Similar views have been given that help us arrive at a conclusion that if the Bill is enacted, it would permit the foreign universities and give them a red carpet welcome in setting up their teaching shops in India through their commercial presence, lead to deterioration in the overall quality of higher education and promote its commercialization, fail to achieve social equity and threaten the cultural identity of India (Altbach, 2010; Chattopadhyay, 2010; Gnanam, 2010; Khadria, 2010; Menon, 2010; Powar, 2010; Sadgopal, 2010; Shah, 2010; Tilak, 2010). To quote Gurukkal (2011), the “FEIB 2010 is only a legislative extension of the policy of economic liberalisation to the educational sector” (p.42.).
However, there are a few who favour the enactment of the Bill on grounds of opening the Indian higher education system to foreign competition and thereby improve quality of higher education to international standards (Agarwal, 2010; Pazhani, 2010; Sharma, 2010; Shastree, 2010; Yadav & Chauhan, 2010).

5.5 TO SUM UP

In the context of analysis of policy perspective in higher education in India we may summarize the following points:

- Since the 1990’s official policies and plans of the government and the UGC have determined the direction in which higher education in India has moved. The reports of the World Bank and UNESCO have played a strategic role in guiding the policy makers to frame a roadmap for the higher education system in India.

- Forty eight years have passed, since the Education Commission (1964-66) recommended six percent allocation of national income of India, exclusively to the education sector. This recommendation has been reiterated in the NPE, 1968, NPE, 1986 and the POA, 1992. However, since 1991, the government of India does not spend more than 3.9 percent of the Gross Domestic Product (GDP) on education (Analysis of Budgeted Expenditure on Education, various years). The matter is one of priorities and lack of political will (Patnaik, 2011; Tilak, 1984, 1986, 2006, 2008).

- Since 1991, various polices of the World Bank have contradicted their stand. While on one hand, these policies have accorded higher education high priority in socio-economic development of nations (especially the developing nations), on the other hand, the policies have recommended drastic cut in public subsidization of higher education, cost recovery from the students, provision of education loans to students desirous of higher education and promotion of private higher education by allowing them to charge fee sufficient to meet costs (World Bank, 1994, 1995, 2000, 2002).

- In tune with the World Bank policies, various committees of the UGC and the AICTE, since 1991, have also suggested full-cost recovery of
education from students via tuition and development fees to meet both recurring and capital costs of education. Furthermore, showing confidence in private investment in higher education, and mobilization of resources from industry and trade and developmental agencies has been the essence of recommendations spelt out by various committees (AICTE, 1994; UGC, 1990, 1993, 1999, 2000).

- The Discussion Paper on Subsidies (1997) called for drastic reduction in public subsidization in higher education by declaring higher education as a ‘non-merit good’. Report on Central Government Subsidies in India (2004) classified higher education as ‘Merit-II good’ that deserved lesser subsidization as compared to school education which was classified as ‘Merit –I good’.

- Private Universities (Establishment and Regulation) Bill, 1995 was introduced to fight out the financial resource crunch of the government and also to provide a legal framework for the establishment of self-financing colleges and private universities. The Policy of Fee Fixation in Private Unaided Educational Institutions Imparting Higher and Technical Education including Management Education (1997) stated as a general principle that fee structure should not promote commercialization or profit making by unaided private higher education institutions in the country. Through the UGC (Establishment and Maintenance of Standards in Private Universities) Regulations, 2003, the Government of India shifted the onus of establishment and regulation of private universities to the state governments without passing any central legislation. The Model Act for Universities 2003 prepared by the UGC projected to reform higher education on the model of market-oriented enterprises promoting corporate ethics.

- The CABE had constituted various committees during the post economic reform period, to critically analyze various issues pertinent to higher education in India. These committees however, stressed the importance of public funding in higher education. However, it also suggested engaging the corporate sector (both public and private) to raise funds for universities and charging high fees from foreign
students to mobilize resources for research (CABE, 1992, 2005a, 2005b).

- The Ambani- Birla Report (2000) echoed the World Bank prescription of assigning focus on primary and secondary education by the governments through gradual withdrawal of subsidies from the higher education sector, privatization of higher and professional education and the legislation of a Private University Bill, and converting the education into a profitable market.

- The National Knowledge Commission (2007) proposed financial autonomy of universities to set student fee levels and tap other sources for generating funds, exploring various public --private partnership models in higher education, and establishment of an independent regulatory authority for higher education.

- The Yash Pal Committee Report (2009) reiterated the role of state in considering higher education as a national responsibility. However, it also recommended expansion of higher education in India through private investment. Also, it suggested the need to evolve a transparent regulatory mechanism and modify the legal framework for ensuring that private institutions do not work on the principles of commercialization.

- The Narayana Murthy Committee (2013) recommended the engagement of the corporate sector in investments for existing institutions and creation of new institutions and knowledge clusters, for research and faculty development. It suggested that corporate sector should be given autonomy in charging fees, proposed establishing private universities with central university status and Public-Private Partnership (PPP) universities that would add to the diversity of the market.

- From the Eighth Five Year Plan (1992-97) to the ongoing Twelfth Five Year Plan (2012-17), the Government of India has increased its focus towards promotion of equitable and inclusive access to qualitative higher education. The Plans have suggested hike in fees, receipt of contributions, donations, gifts, and sponsorships from the alumni,
trusts, private sector and industries as sources of resource mobilization. The Twelfth Five Year Plan has further suggested the entry of for-profit institutions in select areas where acute shortages exist.

- In the post economic reforms, the Supreme Court of India has adjudicated on different aspects and given conflicting judgments regarding the nature and role of private sector, that have added to the widespread confusion in the system of higher education in India.

- A number of bills introduced by the Ministry of Human Resource Development, Government of India related to education are awaiting a nod for approval from the Parliament. However, these bills have received variegated opinions regarding their approval or rejection.

The next chapter investigates, analyzes and interprets the views and perceptions of various stakeholders of the higher education system, viz. students, their parents, teachers, head of institutions/departments, academicians and educationists on commercialization of higher education in India.