Ensuring access to quality education is crucial for India if it wants to take advantage of its demographic dividend. An educated population not only drives economic growth, but also has a positive impact on human development indicators such as life expectancy, birth and death rates, infant mortality rate, and nutrition levels of children (Chakrabarty 2011; GoI n.d., 2012). Presently, about 74 per cent of the country’s total population above 7 years of age is literate (i.e., able to both read and write) — a considerable improvement from 18 per cent in 1951. However, the sector faces many challenges such as poor quality of education at all levels, low quality of research, inadequate basic physical infrastructure, teacher apathy, low quality of training, and lack of autonomy and accountability.

The first section of this chapter gives a brief overview of the current system. This is followed by four sections that describe the regulatory framework at each level of education — i.e., elementary, secondary, higher and vocational education. In each section, some of the recent and proposed changes in the regulatory structure will also be discussed.

PRESENT STATUS

India’s educational system broadly comprises school education (elementary, secondary and higher secondary), higher education (general and professional) and vocational education. The Ministry of Human Resource Development (MHRD) is the nodal ministry for the sector. The other bodies involved in regulating and maintaining standards in the sector include the National Council of Educational Research and Training (NCERT), the University Grants Commission (UGC), the All India Council of Technical Education (AICTE), and the National Council for Teacher Education (NCTE) at the central level. At the state level, the Department of Education and the State Council of Educational Research and Training (SCERT) have important roles to play.

The National Policy on Education (NEP), 1986 as modified in 1992 emphasised universal access and retention, correcting regional and social imbalances and education for women, Scheduled Castes/Scheduled Tribes (SC/STs) and minorities. It also set a goal of increasing expenditure on education to 6 per cent of the Gross Domestic Product (GDP). India spends about 11.5 per cent of its total annual budget on education (GoI 2012). The expenditure on education as percentage of GDP was 3.1 per cent in 2011–12.

Private participation is allowed in all levels of the education sector. However, at all levels, these institutions have to function on a not-for-profit basis. The Supreme Court has ruled that these institutions are permitted a ‘reasonable surplus to meet the cost of expansion and augmentation of facilities’ but prohibited from charging capitation fee or profiteering (the judgement does not define ‘reasonable surplus’) (ibid.: 87). There has been significant progress in enrolment of students at the elementary level but it drops sharply at higher levels. The Gross Enrolment Ratio (GER) at elementary level is 102 per cent, at secondary level 63 per cent, 36 per cent at higher secondary level, and 15 per cent in higher education (MHRD 2011d).

Recent legislative activity has focused on elementary and higher education, and not on secondary education. The Parliament has enacted the Right to Education (RTE) Act, 2009, which operationalises the fundamental right to elementary education up to Class VIII. It is currently considering a number of bills to reform the regulatory framework for higher education (at the university level).

ELEMENTARY EDUCATION

There are various types of schools providing elementary education:

(a) government and government-aided,
(b) schools run by autonomous organisations under the government (such as Kendriya Vidyalayas and Navodaya Vidyalayas),

(c) schools run by government departments directly (such as those run by defence and railways),

(d) schools run by public sector undertakings, and

(e) unaided schools (private).

Government schools are run by the the central, state or local governments. Aided schools are privately managed but receive grants-in-aid from central, state or local governments. Unaided schools (private) are non-profit entities established by trusts or as educational, charitable or religious societies registered under the Societies Registration Act, 1860, or State Acts.7

‘Education’ is a concurrent subject in the Constitution allowing both the centre and states to make laws. Prior to 2002, Article 45 of the Directive Principles of State Policy enjoined the state to ‘provide within a period of 10 years from the commencement of [the] Constitution, for free and compulsory education for all children until they complete the age of fourteen years’. Many states have enacted laws to make education free and compulsory. See, for example, the Delhi Primary Education Act, 1970; the Gujarat Compulsory Primary Education Act, 1961; and Tamil Nadu Compulsory Elementary Education Act, 1994 (Juneja 2003). Over the years enrolment rates improved but dropout rates were high. The GER of children between 6–14 years in 2002–03 was 82.5 per cent. The dropout rate of children at the primary level was 35 per cent (Planning Commission 2008a).

In 1993, the Supreme Court declared that the right to education was a fundamental right as it was an inherent part of the right to life. The Constitution was amended in 2002 to include this right and Article 21A was added, which requires the State to provide free and compulsory education to all children between the age of 6 and 14 years. The RTE Act, which became operational in April 2010, gives effect to this fundamental right.

The Right to Education Act, 2009

The Act seeks to implement the fundamental right to education for all children (including children with disabilities) between 6 to 14 years. The central RTE Rules were notified on 8 April 2010. Till date, 32 states, including Gujarat, Andhra Pradesh, Himachal Pradesh, Orissa, Rajasthan, Punjab, Haryana and Manipur have notified state RTE Rules (PIB 2012b). The government has committed ₹2.3 trillion for five years (2010–11 to 2014–15) to implement the Act. The fund sharing pattern between the centre and the state is in the ratio of 65:35 for five years (PIB 2011).

Key Features

(a) The Act states that every child has a right to free and compulsory education in a neighbourhood school. A school may be government-run or private (aided or unaided). (Note that private schools have to be run on a non-profit basis, which means that surplus money has to be ploughed back into the institution and no dividend can be distributed to the members of the entity that owns the school.)

(b) The Act makes it mandatory for all schools to meet certain minimum norms. Government schools have to meet the Pupil–Teacher Ratio (PTR). All other schools require a certificate of recognition (already established schools shall have three years to comply). Recognition shall be granted if the school satisfies certain norms such as PTR, infrastructure and qualification of teachers. Schools that do not meet these norms within the prescribed timeframe shall be shut down. In case the school violates this provision, it shall be liable to a fine.

(c) Government schools have to provide free and compulsory education to all admitted children. For aided schools, the extent of free education would be proportionate to the funding received, provided that a minimum of 25 per cent seats are reserved for disadvantaged students. All other schools (including unaided schools) have to reserve at least 25 per cent of seats for the students from SC, ST, low-income, and other disadvantaged or weaker groups (including children with disabilities). Unaided schools shall be reimbursed for either their tuition charge or the per-student expenditure in government schools, whichever is lower. If the per-student expenditure is higher than the government schools, the private school has to bear the cost.

(d) The Act prohibits physical punishment or mental harassment, screening procedures for admission of children, capitation fees, private tuitions by teachers,
and running schools without recognition. It also prohibits children from being held back in class, expelled or the requirement to pass a board examination until the completion of elementary education.

**Extent of Regulation of Various Schools**

Since the Act covers all schools, it is important to understand the extent of regulation for various types of schools. It can be seen from Table 1.1 that the requirements differ for government schools and private schools. About 26 per cent of children between 6 and 14 years are enrolled in private schools (note that 7 per cent of primary schools and 13 per cent of upper primary schools are private [aided and unaided]) (GoI 2012; MHRD 2011d).

The only requirement for government schools is to meet the PTR norm. Also, there is no consequence for failing to meet this basic norm. However, private schools are subject to losing their recognition and shutting down if they do not comply with norms for PTR, infrastructure and teaching. The Act also only specifies penalties in case a school collects capitation fees or subjects the child to a screening procedure during admission. Furthermore, the Act places the onus on the government to ensure enrolment of all children, but does not identify which government agency will be responsible for this task.

**Quality of Education**

The primary focus of the Act is on the right to schooling and physical infrastructure. There is no norm to ensure that a school provides a minimum quality of education. Even teachers’ duties are only related to punctuality, attendance, etc., and not on learning achievements of their students. Despite a number of government programmes, including the Sarva Shiksha Abhiyan, many students are performing well below their class levels (GoI 2012). Furthermore, mandating that no child shall be held back until completion of elementary education could result in children reaching Class VIII without achieving certain learning outcomes. In fact, some studies show that despite a high pass rate of 95 per cent, the learning outcomes for children from Classes IV and V are much lower than the norm (NUEPA 2009). The Act does not address this problem nor does it require schools to provide any remedial training for students performing below their peer group. It also does not give parents and guardians the option of voluntarily holding their child back in school. The problem of shortage of trained teachers also remains an issue. Approximately 45 per cent of all elementary schools teachers do not have even a bachelor’s degree (NUEPA 2010). In this context, some states have taken the lead to define norms on quality standards. For example, the RTE Rules notified by the state of Gujarat declare that schools need not meet infrastructure norms if they can demonstrate that they achieve certain learning outcomes, both in terms of absolute levels and as improvement from that of the previous years.8

In 2008, the National Knowledge Commission (NKC), chaired by Shri Sam Pitroda, recommended the setting up of a testing body at the national level for quality assessment of both government and private schools. The testing body would monitor schools on the basis of various types of indicators such as learning levels, enrolment and attendance (NKC 2007).

**Reservation of Seats for Disadvantaged Groups**

The Act requires private schools to reserve 25 per cent seats for disadvantaged groups. This provision was challenged in the Supreme Court by associations of private schools. However, the court ruled that the provision was constitutionally valid, except in case of unaided minority schools. It also asked the government to clarify whether the Act is applicable only to day scholars or extends to boarders. While the court settled the issue of constitutional validity of the provision, other concerns still remain. Schools will be reimbursed only to the extent of the average per-child expenditure in state government schools. It remains to be seen whether this would result in increase of school fees for

<table>
<thead>
<tr>
<th><strong>Table 1.1 Comparison of Extent of Regulation for Various Schools</strong></th>
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<tbody>
<tr>
<td><strong>Government Schools</strong></td>
</tr>
<tr>
<td>All admitted students to be provided free education.</td>
</tr>
<tr>
<td>No recognition required. Have to meet the PTR norm.</td>
</tr>
<tr>
<td>No provision.</td>
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<tr>
<td>No provision.</td>
</tr>
<tr>
<td>Constitute School Management Committee with representatives from parents and local authority. Shall prepare school development plan.</td>
</tr>
</tbody>
</table>

*Source: PRS Legislative Research; Right to Education Act, 2009.*
other students (who may cross-subsidise the students from disadvantaged groups). Some experts have also questioned the exemption of minority institutions from this requirement (Mehta 2012).

### Secondary and Higher Secondary Education

Secondary and higher secondary education (Classes IX–XII) is primarily the responsibility of the state governments. India has a much lower GER at this stage (49 per cent) as compared to countries in east Asia (70 per cent average) and Latin America (82 per cent average) (World Bank 2009). There are 190,643 institutions providing secondary education in the country. The proportion of private schools (operating on a not-for-profit basis) at secondary level is 60 per cent (ibid.).

In order to give a boost to secondary education, in 2009, the central government launched the Rashtriya Madhyamik Shiksha Abhiyan. It seeks to achieve an enrolment rate of 75 per cent within five years, universal access by 2017 and universal retention by 2020. In order to achieve universalisation of access, the working group on secondary education has estimated that 19,946 additional secondary schools will be required to ensure 100 per cent GER by 2017.

### Regulation of Secondary Education

Schools are recognised by respective state departments of school education. Every recognised school which conducts a public examination at the end of Classes X and XII has to be affiliated with a board or council conducting such examinations. There are three central boards:

- Central Board of Secondary Education (CBSE),
- National Institute of Open Schooling; (NIOS) and

Each state also has state boards such as the Andhra Pradesh Board of Secondary Education, Bihar School Examination Board and Maharashtra State Board of Secondary and Higher Secondary Education. The state boards are either statutory or under the state Department of Education. They vary considerably in terms of their quality, what they assess in terms of learning and how they are graded. The school boards set the syllabus and conduct the final evaluation (World Bank 2009).

Since 2010, the CBSE made the Class X Board examination optional for students studying in schools affiliated with the CBSE. It introduced the scheme of Continuous and Comprehensive Evaluation (CCE) to improve the quality of schools affiliated to it. If the students continue in the same school after Class X, they can be promoted either on the basis of CCE or the result of the Class X board examination. If the student wishes to leave the CBSE system after Class X he is required to appear in the Board examination conducted by the CBSE. The CBSE scheme was presented to many state boards but it is yet to be implemented at the state level.

**Fees:** The central government does not regulate the fees charged by private schools. CISCE and CBSE’s affiliation by-laws state that fees charged by schools affiliated to these Boards should be commensurate with the facilities provided by the schools. They also cannot charge capitation fees or accept donations to admit students. Private schools under state boards have to follow regulations of their respective state governments. Currently, most states allow private schools to fix their own fees subject to certain restrictions (such as prohibiting charging of capitation fees and requiring private schools to get their fee structure approved by the government) (Ashar and Bhandary 2011; Business Standard 2012; Deccan Chronicle 2012).

There is, however, evidence that some education providers have created new structures to bypass the requirement that trusts and societies have to plough back the surplus generated into the same school for its development. They operate through a two-tier legal structure: a trust that runs the school and a company that owns the assets (land, building) and provides services (management and technology). The school trust pays lease rentals and management fees to the company. In this way, the surplus of tuition fees over teacher salaries flows to the company which can...
then distribute it as dividends (Jayashankar 2010; Vora and Dewan 2009).

Various committees have recommended ways to strengthen the secondary education system. These include the NKC, the Central Advisory Board of Education (CABE) Committee’s Report on Universalisation of Secondary Education and the Planning Commission’s Working Group Report on Secondary and Vocational Education (12th Five-Year Plan). Some of the key recommendations are summarised in Table 1.2.

**Higher Education**

Education provided after completion of school education (Class XII) is known as higher education, which comprises education in general subjects, and professional and technical education. At present, India’s GER is 15 per cent in higher education (MHRD 2011c), which is much lower than the world average of 23 per cent (Planning Commission 2008a).

The aim is to increase the GER to 21 per cent by the end of the 12th Plan and 30 per cent by 2020 (MHRD 2011c). The number of unaided higher education institutions has increased over the years (currently 63 per cent of institutions are private) (Planning Commission 2008a). With about 50 per cent share in enrolment, private institutions have improved access. However, they are concentrated in a few select disciplines such as engineering, management, medicine, and information technology (IT). Also, the spread of private institutions is uneven, with some states witnessing more growth than others (ibid.).

**Regulation of Higher, Professional and Technical Education**

Both the centre and the states can enact laws related to education since it is in the Concurrent List of the Constitution. In addition, the centre has the power to determine standards for higher educational institutions while the states can incorporate, regulate and wind up universities. The MHRD frames major policies related to higher education and provides grants to the UGC. The central government establishes central universities. The UGC may recognise institutions as deemed universities. The state governments are responsible for establishment of state universities and colleges, and they also provide grants for their development and maintenance (MHRD 2011b).

Technical education is regulated by the AICTE, apart from which there are 14 statutory professional councils that regulate courses related to areas such as medicine, law and nursing (ibid.).

**Higher Education**

The UGC (statutory body established in 1956) is the apex body that regulates universities and colleges teaching general subjects. It has the power to determine and maintain standards and disburse grants. Universities can be central, state, private, or deemed. The UGC stipulates that colleges that provide degree courses have to be affiliated with a university. The UGC provides minimum qualification of teachers, guidelines for award of various degrees and standards that private universities have to maintain. It can also regulate

<table>
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<tbody>
<tr>
<td>• Decentralisation of school management to local authorities such as panchayats as far as possible.</td>
<td>• Focus on universal access, equality, and relevance.</td>
<td>• Extend Rashtriya Madhyamik Shiksha Abhiyan (RMSA) scheme to government-aided schools and to cover higher secondary education.</td>
</tr>
<tr>
<td>• Transparent, norm-based procedures for the recognition of private schools, to reduce harassment and bureaucratic delay.</td>
<td>• Flexible curriculum and scientifically designed student assessment system.</td>
<td>• Provide for residential schools and hostels in existing schools to enhance access.</td>
</tr>
<tr>
<td>• National evaluation body to monitor the quality of both government and private schools, using a results-based monitoring framework.</td>
<td>• Develop a Secondary Education Management Information System to capture data on girls, SC/STs, minorities, etc.</td>
<td>• Civil construction work under RMSA should be carried out as per state schedule of rates since they vary from state to state.</td>
</tr>
<tr>
<td>• Need to revamp school inspection, provide training to teachers, reform curriculum and incorporate English into the curriculum.</td>
<td>• Need for decentralised micro-level planning.</td>
<td>• Waive off financial ceiling on infrastructure support for existing secondary schools. Enhance school grant to ₹100,000 per school per annum from ₹50,000. These grants are used to pay electricity and water bills, books, periodicals, etc.</td>
</tr>
<tr>
<td>• Flexibility in disbursement of funds.</td>
<td>• Allocation of 6 per cent of GDP for education.</td>
<td>• Provide untied fund of ₹10 million at the district level to improve quality in school.</td>
</tr>
</tbody>
</table>

**Table 1.2: Key Recommendations of Committees on Secondary Education**

*Source: CABE (2005); Department of School Education and Literacy (2011); NKC (2009); PRS Legislative Research.*
fees of universities if it is in the public interest to do so and prohibits such universities from taking any donations.  

**Technical and Professional Education**

Technical education is regulated by the AICTE and the subjects that fall under this include engineering, management, pharmacy, architecture. Technical institutions can provide degree programmes if they are affiliated with a university (this condition is waived for some institutions). Affiliation is not required if the institution runs only diploma programmes. The CABE, which includes representatives from the central and state governments and other experts, coordinates between the centre and the states. There are also 14 professional councils such as the Medical Council of India, the Dental Council of India, the Bar Council of India and the Council of Architecture that recognise courses, promote professional institutions and provide grants to undergraduate programmes.

Table 1.3 gives an overview of different types of institutions in higher education

The fees and the manner in which admission is granted in unaided institutions are regulated by the state-constituted Fee and Admission Regulatory Committee, which determines the fee that each private institution can charge and the student intake. The Supreme Court has ruled on this subject in a number of court cases (see Box 1.3).

Accreditation of institutions is currently voluntary. The National Assessment and Accreditation Council and the National Board of Accreditation are autonomous bodies that accredit institutions, set up by the UGC and the AICTE respectively. Presently, foreign institutions are allowed to operate in India through various modes. Indian universities can grant degrees and diplomas in collaboration with foreign universities. However, foreign universities cannot set up branch campuses without an Indian partner. The AICTE regulates foreign institutions, which provide technical education either directly or through collaboration with Indian partners (AICTE 2005).

There are many challenges facing higher education. Some of the key challenges are related to access, quality, governance and funding. There have also been several issues related to regulation of the private sector.

(a) **Access:** India’s GER in higher education is about 15 per cent (MHRD 2011c). Other countries such as the United States (US) (81 per cent), the United Kingdom (UK) (54 per cent), Japan (49 per cent), and Malaysia (27 per cent) have much higher enrolment rates (NKC 2009).

(b) **Quality:** No Indian university is listed in the top 100 universities in the world and only two are listed in the top 200 (Times Higher Education 2012). In 2009, a review committee set up by the MHRD found 88 of the 130 deemed universities to be of poor quality and identified

### Table 1.3 Regulatory Structure of Higher Education

<table>
<thead>
<tr>
<th>Type of Institutions</th>
<th>Number of Institutions</th>
<th>Structure of Regulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Universities</td>
<td>452</td>
<td>Set up by Act of Parliament or State legislatures (can be public or private).</td>
</tr>
<tr>
<td>Deemed to be Universities</td>
<td>129</td>
<td>Central government grants status on recommendation from UGC. Have autonomy to set their own syllabus, admission criteria and fees.</td>
</tr>
<tr>
<td>Colleges</td>
<td>33,023</td>
<td>Affiliation to a public university is mandatory (private universities cannot affiliate). Can be aided, unaided or autonomous.</td>
</tr>
<tr>
<td>Institutes of National Importance</td>
<td>39</td>
<td>Status granted by an Act of Parliament (IITs, NITs, etc.) to high-performing institutes. Can award degrees without affiliating with a university.</td>
</tr>
<tr>
<td>Institutions established under State Acts (Centres of Excellence)</td>
<td>5</td>
<td>Set up by a State Act. Includes Nizam’s Institute of Medical Sciences, Hyderabad; Sri Venkateswara Institute of Medical Sciences, Tirupati; and Sher-e-Kashmir Institute of Medical Sciences, Srinagar.</td>
</tr>
<tr>
<td>Technical Education (Central or State Government-Funded and Self-Financed Institutions)</td>
<td>10,139</td>
<td>AICTE approves setting up of new institutions and introduction of new courses. Includes engineering, technology, management, architecture, town planning, and pharmacy.</td>
</tr>
<tr>
<td>Institutions offering Medical, Legal, Dental, Nursing, Teacher Education</td>
<td>—</td>
<td>Regulated by 14 professional councils such as the Medical Council of India, Bar Council of India, and Dental Council of India that can recognise courses and promote the institutions.</td>
</tr>
<tr>
<td>Polytechnics</td>
<td>3,716</td>
<td>Set up by state governments or by a private body with the approval of AICTE. Private polytechnics have to be set up through a sponsoring body: a society or a trust. Can offer only diploma or certificate courses.</td>
</tr>
</tbody>
</table>

problems such as control of management boards by nominees of the sponsoring trust or government functionaries, low quality of research, and improper practices in admission process (MHRD 2009a). In 2005, the Supreme Court struck down a law in Chhattisgarh that allowed the state government to establish universities through a notification. Universities had been set up without adhering to UGC norms of infrastructure, teaching facility, financial resources, and teaching standards. Shortage of quality faculty has contributed significantly to the problem (MHRD 2011b).

(c) Funding: Universities in India face financial constraints. Only 0.7 per cent of India’s GDP is spent on higher education (NKC 2009), which is lower than countries such as the US (2.9 per cent), UK (1.3 per cent) and China (1.5 per cent) (NBS of China 2007; NCES 2010: 110–11). In general, about 75 per cent of maintenance expenditure is spent on salaries and pensions, and 15 per cent is absorbed by claims such as rents, electricity, telephones, and examinations (NKC 2009).

(d) Governance: India’s National Policy on Education, 1986 emphasised the need for decentralisation, autonomy of educational institutions and the principle of accountability in managing educational institutions. However, the implementation fell short of the desired goals and principles. The regulatory bodies have a cumbersome procedure for granting recognition and there is large-scale corruption (GoI 2006; MHRD 2009a). Some issues that need to be resolved to promote autonomy, accountability and transparency are: government intervention, the large size of university councils, high entry barriers for new universities, and the system of affiliated colleges.

(e) Regulation of Private Sector: Various Supreme Court judgements have sought to curb profiteering by ordering varying degree of control on private institutions. States such as Madhya Pradesh, Andhra Pradesh, Gujarat, Karnataka, and Orissa enacted laws to set up such committees to approve the fee structure in professional educational institutions. However, according to the Yash Pal Committee report, the charging of capitation fees, which range from ₹0.1–1.2 million depending on the course, have not abated (MHRD 2009b). On the other hand, the private institutes claim that capitation fee is required to ensure financial viability of the institution. Some experts also contend that allowing only non-profit entities to operate in the education sector does not ensure quality, nor does it increase supply or curb charging of capitation fees (Basu 2009; Debroy 2008; Mehta 2005). The non-profit status may act as an incentive for unscrupulous players since such entities get tax exemptions, which makes it easier to launder money (Kapur and Mehta 2004).

(f) Admission in Private Institutes: This is also regulated by the government. A certain number of seats are earmarked as government seats where students pay the equivalent of the fee charged in government institutes. About 15 per cent of seats are categorised as management quota, where students pay the fee as mandated by the Fee Regulatory Committee. The 93rd Constitutional Amendment enables the Parliament or State Assemblies to enact laws reserving seats for SC/ST/OBC in private institutions.

In 2009, two high-level committees — the NKC and the Yash Pal Committee — suggested various ways to revamp the higher education sector. The main recommendations are summarised in Table 1.4.

**Box 1.3**

**Key Supreme Court Judgements on Fees in Private Institutions**

Mohini Jain v. State of Karnataka (1992): Fees charged in private institutions in excess of tuition fees in government colleges is deemed to be capitation fees.

Unnikrishnan, J. P. v. State of Andhra Pradesh (1993): Banned capitation fees and devised a scheme, which allotted 50 per cent seats in an unaided professional institution as free seats (fees same as a government institution) and 50 per cent as payment seats (fees higher than ‘free seats’ but have to be approved by a state-level committee).

T. M. A. Pai Foundation v. State of Karnataka (2002): The decision regarding the fee to be charged must be left to the private institution that does not depend on any funds from the government. The object of an institution should not be to make profit. However, it can generate a reasonable revenue surplus, for the purpose of development of education and expansion of the institution.

Islamic Academy v. State of Karnataka (2003): A committee in each state, headed by a retired High Court judge, should approve the fee structure, which shall be binding for three years.

P. A. Inamdar v. State of Maharashtra (2005): The committees regulating admission and fee structure shall continue to exist, but only as a temporary measure until the central or state governments are able to devise a suitable mechanism for such regulation.

**Proposed Regulatory Structure for Higher Education**

The government has introduced six Bills that would lead to significant changes in the regulatory structure for higher education:
TABLE 1.4  Key Recommendations of the NKC and Yash Pal Committee

<table>
<thead>
<tr>
<th>National Knowledge Commission</th>
<th>Yash Pal Committee</th>
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<tbody>
<tr>
<td><strong>Regulatory Structure</strong></td>
<td></td>
</tr>
<tr>
<td>• Establish an Independent Regulatory Authority for Higher Education (IRAHE) through an Act of Parliament to set standards and determine eligibility criteria for new institutions.</td>
<td>• Establish a National Commission of Higher Education and Research (NCHER) through a constitutional amendment, to replace UGC, AICTE, NCTE and Distance Education Council (DEC).</td>
</tr>
<tr>
<td>• It shall also settle disputes and monitor licensing of accreditation agencies (both public and private).</td>
<td>• Professional bodies such as Medical Council of India and Bar Council of India should conduct qualifying examinations.</td>
</tr>
<tr>
<td>• The UGC shall only disburse public funds. Abolish all professional bodies except the Medical Council of India and Bar Council of India who shall provide licences to those wishing to enter the profession.</td>
<td>• The NCHER shall create norms for accreditation and certify accrediting agencies, independent of the government.</td>
</tr>
<tr>
<td><strong>Access</strong></td>
<td></td>
</tr>
<tr>
<td>• Expand the number of universities to 1,500 by establishing 50 National Universities and giving autonomy to individual colleges or clusters of colleges with proven track record.</td>
<td>• Establish a National Education Tribunal to adjudicate disputes.</td>
</tr>
<tr>
<td>• Give admission without taking into account a student’s ability to pay. Have a National Scholarship Scheme and allow institutions to set their own fees if at least two banks are willing to give a loan without any collateral. Address disparities of income, gender, region by creating deprivation index.</td>
<td>• Regulatory mechanism should make rational and consistent rules for setting up institutions (both public and private). Education should be made affordable either through scholarships or loans.</td>
</tr>
<tr>
<td>• Allow institutions to set their own targets and achieve those in a specified time frame. Reform the curricula based on principles of mobility and academic depth. Universities should have rich undergraduate programmes.</td>
<td>• Allow only the top foreign universities to establish campuses.</td>
</tr>
<tr>
<td><strong>Quality</strong></td>
<td></td>
</tr>
<tr>
<td>• Existing universities: revise curricula, follow course credit system, promote research, performance incentives to faculty.</td>
<td>• The best colleges should be upgraded to university status. A number of colleges can be clubbed into clusters and be recognised as universities.</td>
</tr>
<tr>
<td>• Colleges: Replace affiliation system with autonomy to top colleges, remodel some into community colleges and establish a Central Board of Undergraduate Education.</td>
<td>• Allow institutions to set their own targets and achieve those in a specified time frame. Reform the curricula based on principles of mobility and academic depth. Universities should have rich undergraduate programmes.</td>
</tr>
<tr>
<td>• Make disclosure norms for institutions stringent, including their accreditation level. Enhance quality through competition by allowing foreign institutions to operate in India.</td>
<td>• Optimise size of state universities. All private institutions have to be mandatorily accredited. Granting of deemed university status should be put on hold.</td>
</tr>
<tr>
<td><strong>Governance</strong></td>
<td></td>
</tr>
<tr>
<td>• Governance structures should preserve autonomy and ensure accountability of universities. Vice Chancellors should be appointed through a search process and peer judgement alone. The large size and composition of university courts, academic councils and executive are impediments. Decisions should be taken by standing committees of academic councils.</td>
<td>• Competitive remuneration and improved infrastructure is required. Student feedback should be taken to identify poor performers.</td>
</tr>
<tr>
<td>• Address the problem of politicisation of universities.</td>
<td>• Governance structure should preserve the autonomy of universities. Need to develop expertise in educational management and separate it from academic administration.</td>
</tr>
<tr>
<td><strong>Funding</strong></td>
<td></td>
</tr>
<tr>
<td>• Government funding should be 1.5 per cent of the GDP by 2012. Asset of universities such as land should be managed for revenue.</td>
<td>• Need for exclusion of politicians and limited representation of government in governance structures.</td>
</tr>
<tr>
<td>• Rationalise fees by requiring it to meet at least 20 per cent of the total expenditure. The UGC’s grants-in-aid should not be reduced and disadvantaged students should have fees waived plus scholarships.</td>
<td>• Teachers should have autonomy to frame their courses and assess the students.</td>
</tr>
<tr>
<td>• Encourage philanthropic contributions through incentives for universities and donors. Allow private investment in universities. Public–private partnerships to set up universities. Make efforts to attract international students.</td>
<td>• Need to find supplementary sources of funding, including encouraging philanthropy. Alumni should be tapped as a source.</td>
</tr>
</tbody>
</table>

*Source: MHRD (2009b); NKC (2009); PRS Legislative Research.*
(a) **Higher Education and Research (HER) Bill, 2011**: It seeks to establish the National Commission for Higher Education and Research (NCHER) to facilitate determination and maintenance of standards of higher education and research in all areas except agricultural education. It shall replace the UGC, the AICTE and the NCTE.

(b) **National Commission for Human Resources for Health (NCHRH) Bill, 2011**: It aims at setting up a mechanism to determine and regulate the standard of health education in the country. It shall replace the Indian Nursing Council, the Pharmacy Council, the Dental Council, and the Medical Council.

(c) **Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010**: It seeks to allow foreign institutions to set up campuses in India without an Indian partner subject to specific conditions.

(d) **National Accreditation Regulatory Authority (NARA) for Higher Educational Institutions Bill, 2010**: It is aimed at instituting an apparatus to accredit all higher educational institutions.

(e) **Educational Tribunals Bill, 2010**: Through this Bill, the government intends to set up national and state-level tribunals. Disputes related to institutions, students, faculty, and statutory authorities shall be adjudicated by these tribunals.

(f) **Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010**: It seeks to penalise unfair practices of private educational institutions, which include charging of capitation fees, not giving receipts for payments made and publishing false advertisements.

The regulatory structure proposed by the six Bills states that the NCHER and NCHRH are the statutory authorities that will set standards and regulate higher educational institutions, including foreign educational institutions. The NARA shall licence agencies for accrediting institutions. Disputes between institutions, students and faculty shall be resolved through educational tribunals. Unfair practices such as capitation fees, donations, and false advertisements shall be penalised.

However, it is unclear whether each of these Bills will necessarily achieve their respective objectives. The HER Bill that establishes the NCHER (replacing the UGC and the AICTE) states that it seeks to maintain standards of higher education and promote autonomy. The NCHER has the power to specify requirements for award of degree or diploma; and norms for establishment and winding up of institutions, academic quality (includes physical infrastructure, faculty qualification) for accreditation and allocation of grants. It shall also maintain a directory of academics for leadership positions for appointment as Vice Chancellors. These powers are similar to the powers enjoyed by the UGC and the AICTE.

The National Accreditation Regulatory Authority Bill, 2010 makes accreditation mandatory for every educational institution and programme. However, the Bill only allows government-controlled non-profit agencies to register as accreditation agencies. This raises a number of issues:

(a) whether this will dilute the objective of creating a healthy competitive environment for quality rating of educational institutions;

(b) whether the time frame to get accredited is sufficient given that all educational institutions have to get accredited within three years (five years for medical institutes); and

(c) whether there is a need for a regulatory body (NARA) given the restriction on private sector participation. In countries such as the US, the UK and Germany, both

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**Figure 1.1 Proposed Regulatory Structure**

![Proposed Regulatory Structure Diagram](image)

*Source: Prepared by the authors.*
public and private agencies are allowed to accredit educational institutions. Committees such as the NKC suggested that both public and private accreditation agencies should be allowed and the Yash Pal Committee stated that accreditation agencies should be independent of the government (MHRD 2009b; NKC 2009).

The Foreign Educational Institutions Bill, 2010 seeks to enable foreign universities to set up independent campuses in India. However, the Bill requires foreign institutions to maintain a corpus fund of at least ₹500 million, does not allow repatriation of funds and requires them to have a track record of 20 years in the parent country. Given such conditions, it is an open question whether top foreign institutions would choose to come to India. Experts are divided over whether foreign educational institutions should be allowed to operate in the country. Opponents argue that it would commercialise the sector and increase disparity in access (Chattopadhyay 2009; Chowdhury 2010; Rahman 2010). Proponents contend that it would increase choices for students, enhance competition in the sector with potential for qualitative improvement in the Indian educational institutions, provide technical skills for the job market, and retain some of the funds that flow overseas (Indian Express 2010; NKC 2009; Palit 2009; Schukoske 2006). The Standing Committee on HRD, which examined the Bill, recommended that it be passed with adequate safeguards for stakeholders. It suggested that: (a) an independent regulator should monitor, fee, curriculum, salary, etc; (b) approvals be given on a short-term basis first, which could be extended based on performance; and (c) the government devise incentives for foreign institutions to utilise their surplus funds in India (GoI 2011).

The Prohibition of Unfair Practices Bill, 2010 makes taking of capitation fees an offence. It also makes it mandatory for institutions to disclose certain information in the prospectus. However, some experts contend that capitation fee is prohibited even now (MHRD 2009b). Since the Bill does not provide a different system of enforcement of such regulations, the likelihood of such a law making a difference in unfair practices may not be high. Furthermore, if the core issues of shortage of seats and quality of institutions are addressed, this would automatically reduce capitation fees (Basu 2009; Debroy 2008; Mehta 2005). The Bill was examined by the Standing Committee on HRD. It recommended that excess of 10 per cent of tuition fee should be termed as capitation fees and the penalty for taking these increased (GoI 2011).

VOCATIONAL EDUCATION

In India, vocational education (training in a specific vocation or trade) is provided through two basic ways: formal and informal. The formal structure includes: (a) vocational courses offered in professional colleges and polytechnics, (b) vocational streams in schools at the higher secondary stage, (c) technical training in specialised institutions such as Industrial Training Institutes (ITIs)/Industrial Training Centres (ITCs), and (d) apprenticeship training. The informal structure includes training at the workplace and apprenticeships with family members (no certification is provided for such workers). There are 17 ministries of the government that impart vocational training (such as the ministries of HRD, labour, tourism, textiles, urban development, agriculture, and food processing industry) (PIB 2012a). Each ministry sets up training institutes in its subject of specialisation such as handloom, handicrafts, small industry, and tourism (Planning Commission 2008b).

Currently, only 2 per cent of the workforce in the age group of 15–29 years has undergone formal vocational training and 8 per cent have had non-formal vocational training. [Note that about 93 per cent of India’s workforce is in the informal sector (Department of School Education and Literacy 2011)]. A large proportion of the workforce in the age group of 19–24 years has received vocational education in countries such as South Korea (96 per cent), Germany (75 per cent), Japan (80 per cent), and the UK (68 per cent) (Planning Commission 2008b). India has set a target of creating 500 million skilled workers by 2022 (PIB 2012a). Therefore, there is a dire need to increase capacity and capability of skill development programmes.

Regulation of Vocational Education

Government and government-aided schools offer vocational courses under a centrally-sponsored scheme termed Voca
tionalisation of Higher Secondary Education. The scheme, started in 1988, provides financial assistance to states to set up administrative structures, prepare curriculum and offer training programmes for teachers. It also provides financial assistance to NGOs to conduct short-term courses. Schools are selected by the state governments. Since 1988, about 9,000 higher secondary schools have introduced the programme. There are about 150 vocational courses that schools may offer and students are awarded a certificate after completion. In addition, the CBSE schools (including the National Open School) also offer vocational courses (Department of School Education and Literacy n.d.).

Several types of educational institutions (colleges, polytechnics, ITIs/ITCs) offer vocational courses and training. Polytechnics offer three-year diploma courses in branches related to engineering, pharmacy and hotel management, and are regulated by the AICTE within the MHRD. The ITIs/ITCs conduct vocational training courses in 114 trades and are regulated by the Directorate General of Employment and Training, Ministry of Labour and Employment.
The duration of training courses varies from six months to three years and students with Classes VII to XII pass qualification can seek admission in these courses. These institutes can be started by the private sector provided they conform to the norms laid down by the Ministry (ibid.).

At present, there are 3,716 polytechnics and 9,480 ITIs/ITCs operating in the country (2,247 are government- and 7,233 are privately-managed). The Apprentices Act, 1961 regulates training of apprentices in 94 vocational courses (apprentices include students who take up vocational courses in schools).

Key Government Schemes

National Vocational Educational Qualification Framework (NVEQF)
The government is in the process of preparing the NVEQF. The NVEQF would set common principles and guidelines for a nationally-recognised qualification system, covering schools, vocational education institutes and institutes of higher education. The aim is to enable stakeholders such as students and employers to objectively assess the level of competency gained through a vocational course. Furthermore, students will be able to opt for vocational courses from Class IX onwards, instead of Class XI (Department of School Education and Literacy n.d.).

Centrally-Sponsored Scheme of Vocationalisation of Secondary Education

Launched in 1988, the scheme aims to enhance educational opportunities to enhance employability, reduce mismatch between demand and supply of skilled human resources and provide an alternative stream of education. The scheme offers two-year vocational courses in government and government-aided schools after Class X. The scheme provided financial assistance to states for running these courses. The existing scheme was revised in 2011 to (a) focus on partnerships with the industry in imparting vocational education in schools, (b) assist private schools under the Public–Private Partnership (PPP) model and (c) build capacity of vocational teachers (Department of School Education and Literacy 2011).  

Sub-Mission on Polytechnics

Under the scheme, it is proposed to establish 1,000 polytechnics in the country:

(a) 300 polytechnics to be set up by the state governments/union territories with assistance from the central government in unserved districts;
(b) 300 polytechnics to be set up through PPP by the state governments and union territories (polytechnics will be selected in consultation with state governments, and various industrial organisations such as Confederation of Indian Industry [CII], Federation of Indian Chambers of Commerce and Industry [FICCI], Associated Chambers of Commerce and Industry of India [ASSOCHAM], and PHD Chamber of Commerce, etc.); and
(c) facilitate the creation of 400 additional polytechnics by the private sector (Department of School Education and Literacy n.d.).

National Skill Development Mission (NSDM)
The NSDM was launched to create a pool of skilled personnel in line with the employment requirement across multiple sectors. Under the NSDM, the government set up three bodies:

(a) the National Skill Development Corporation (set up as a PPP to facilitate training for 150 million people);
(b) the Prime Minister’s Council on Skill Development; and
(c) the National Skill Development Coordination Board. The basic purpose of this initiative is to bridge the skill-gap in the country and enhance employability of the workforce (Ministry of Labour and Employment 2011; PIB 2010).

Key Challenges

Vocational education and training in India faces a variety of challenges, which will be discussed in this section.

Access and Quality: The institutional spread of ITIs/ITCs shows acute disparity with over half of these institutes located in the southern states. The quality of the training provided is poor as the infrastructural facilities, tools, faculty, and curriculum are not of sufficient standard. The privately-run ITCs also have similar problems due to low-paying capacity and various industrial organisations hence the training provided is outdated and irrelevant. The curriculum often remains static for years, and facilities and laboratories are often outdated (ibid.).
Key Recommendations of Committees

In its 11th Five-Year Plan, the Planning Commission focused on upgrading existing infrastructure and setting up new institutes for vocational training (Planning Commission 2008b). The Working Group for Vocational Education for the 12th Five-Year Plan made certain recommendations (Ministry of Labour and Employment 2011):

(a) Assessment of human resource is essential for planning. Therefore, such estimates should be collected by Sector Skill Councils to be set up by the National Skill Development Corporation.

(b) The selection of schools and vocational electives should be based on assessment of skill needs, availability of required resources such as teachers/trainers, necessary raw material, electricity, water supply, and employment opportunities.

(c) Curriculum should be developed with inputs from academic and industry experts and should be reviewed and revised every two to three years or earlier.

(d) Teacher training courses should include a separate paper on vocational education.

(e) Schools should be provided with adequate tools, equipment and machinery for the development of soft and basic technical skills.

(f) Each school should have linkages with industry or business establishments. Specialised practical training can be arranged in these establishments.

(g) A separate management structure should be set up at the national, state and district levels for the implementation and monitoring of the NVEQF at various levels.

(h) The private sector should be engaged under a PPP model as academic and industrial partners along with NGOs and local government bodies.

The NKC also made certain recommendations related to vocational education (NKC 2009):

(a) Vocational education should be placed entirely under the MHRD (currently there is a fragmented management of the sector, i.e., it falls under different ministries).

(b) Retain aspects of general education within vocational education, which would enable students to return to mainstream education at a later stage.

(c) Students be permitted multiple entry and exit options in the vocational education stream.

(d) Links should be established between vocational education and school and higher education.

(e) Data should be collected periodically to assess the impact of training on employability.

(f) The government should aim to spend at least 10–15 per cent of its total public expenditure on vocational education.

(g) A massive increase in quantity of training is required to meet the need for skilled labour. The government may consider options such as PPPs, distance learning and computerised vocational training.

(h) Certain minimum standards should be introduced as a measure of quality, which should be followed by all public and private vocational institutions.

(i) Training options for unorganised and informal sectors should be enhanced.

(j) An independent regulatory agency should be established for vocational education and training. This body would license accreditation agencies and prescribe standards for certification.

(k) In order to ensure recognition of certification by employers, an electronic database of certified training providers as well as electronic identification for certified workers should be introduced.

Concluding Remarks

India is graduating to an economy where the bulk of its population will be in the relatively younger age group of 20–35 years. This ‘demographic dividend’ provides India great opportunities but also poses a great challenge. India will be able to reap the benefits of such a dividend only if its population is healthy, educated and appropriately skilled. This chapter focused on the regulation of the education sector and analysed the challenges that need to be overcome before India can have a world-class education system at all levels.

India’s ability to emerge as a globally competitive country will substantially depend on its knowledge resources. Presently, there are a small number of institutions that provide high-quality education while the majority need significant improvement in terms of quality, access and equity. There have been some recent initiatives to reform the sector including the RTE Act, various bills to reform higher education regulation and schemes related to vocational education. However, many of these initiatives do not fully address issues related to quality and access of education and governance of the sector. They also do not encourage participation of the private sector in providing education. In order to bring about a systemic transformation, it is important to address many of the weaknesses and contradictions inherent in the regulatory structure of the education sector. The roadmap to reforming the sector needs to focus on enhancing access to knowledge, providing high quality of education, improving the delivery system, and re-shaping the research and development structures.
NOTES

2. Supreme Court cases such as the 1993 Unnikrishnan case, the 2002 T. M. A. Pai Foundation case, the 2003 Islamic Academy of Education case, and the 2005 P. A. Inamdar case.
5. Supreme Court cases such as the 1993 Unnikrishnan case, the 2002 T. M. A. Pai Foundation case, the 2003 Islamic Academy of Education case, and the 2005 P. A. Inamdar case (see Agarwal 2006).
6. Also see 'Access to Higher Education', Unstarred Question no. 5404, Lok Sabha, answered on 9 May 2012.
10. Unstarred Question no. 4479, Lok Sabha, answered on 21 December 2011.
11. Ibid.
12. Unstarred Question no. 5582, Lok Sabha, answered on 7 September 2011.
15. Seventh Schedule, Constitution of India.
17. Ibid.
22. Unstarred Question no. 3999, Lok Sabha, answered on 19 December 2011.
23. Unstarred Question no. 1334, Lok Sabha, answered on 21 March 2012; Unstarred Question no. 1557, Lok Sabha, answered on 30 November 2011.
24. Unstarred Question no. 1557, Lok Sabha, answered on 30 November 2011.
25. Starred Question no. 364, Lok Sabha, answered on 2 May 2012; Unstarred Question no. 7217, Lok Sabha, answered on 21 May 2012.
26. Unstarred Question no. 1557, Lok Sabha, answered on 30 November 2011.

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