

The Higher Education Commission of India Bill: A Failure of Imagination

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ABSTRACT The Ministry of Human Resource Development in late June floated the Higher Education Commission of India (HECI) Bill, 2018, to repeal the seven-decade-old University Grants Commission (UGC) Act, 1956. The HECI, when established, will replace the UGC that has been the bedrock of India's higher education system. This brief analyses the draft bill and examines its deficiencies. It suggests that the present bill fails to address the shortcomings of the older regulator; it is in fact a mirror image and will not redeem the higher education system from its old woes of minimal autonomy and poor quality of teaching and learning. HECI, as the new regulator, fails to be radically transformative in its approach. At a time when Indian institutes are aiming to feature in global rankings, regulators that diminish autonomy by promoting centralisation of functions need to be negated.

INTRODUCTION

“...over the years we have followed policies of fragmenting our educational enterprise into cubicles. We have overlooked that new knowledge and new insights have often originated at the boundaries of disciplines.”

– Prof Yash Pal, scientist and former chair, UGC (1986-1991)¹

Indian higher education is a highly complex and fragmented system.² One of the major reasons for its current dismal state is the presence of multiple regulators with varying quality and standards of monitoring and assessment.³ Under the Ministry of Human

Resource Development (MHRD) at the Centre, the University Grants Commission (UGC) and the All India Council of Technical Education (AICTE) have been regulating the majority of the country's universities, affiliated colleges, technical and management institutes. Besides,

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there are other regulators, including the Bar Council of India (BCI), Medical Council of India (MCI), National Council for Teacher Education (NCTE), and Indian Council of Agricultural Research (ICAR), that set norms and standards for professional courses such as law, medicine, and agriculture. State universities and affiliated colleges, which enroll more than 90 percent of India's student population that avail of higher education, however, must abide by these national regulators as well as align themselves with the state government authorities and their regulations.

India currently has 903 universities, 39,050 colleges and 10,011 standalone institutes.⁴ These universities and their affiliated colleges are often criticised for being substandard as they are overwhelmingly underfunded and mired in politics of both the state and the central governments. This is because the chairpersons/heads of these institutes are invariably political appointees under the respective University Acts.⁵ These are also the institutes regulated by the UGC. Among other issues, UGC has been criticised by academics for misutilisation of power and mismanagement of funds (Yash Pal committee, 2009 and Hari Gautam Committee, 2015).⁶

According to the UGC Act, 1956, it is empowered with the following key functions, among others:⁷

- Establish and expand institutions of higher education under universities;
- Provide funds for their maintenance;
- Recommend improvement measures for implementation;

- Advise states on allocation of funds to universities;
- Educate universities on international best practices;
- Ask universities to furnish information on courses, teaching, examination, financial position; and
- Regulate fees, control intake and admissions in courses and programmes, decide faculty qualification.

Over the years, UGC's micromanagement of state institutions has led to the decline in not only the quality of education in these institutes but their autonomy as well.⁸ In 2013, the Ministry of Human Resource Development launched the Rashtriya Uchchatar Shiksha Abhiyan (RUSA) or the National Higher Education Mission (NHEM) to strategise funding to state universities and their affiliated colleges. However, here too, funds were ultimately channeled through the National Mission Authority, which also has representation from the UGC.⁹ In fact, in the budget of 2018, allocation of funds to RUSA saw only a paltry increase of INR 100 crore, against the high number of institutions it caters to. On the other hand, UGC's funds were reduced from the previous year's budget estimate of INR 4,922.7 crore to INR 4,722.7 crore.¹⁰

However, in the recent past, the MHRD has made attempts to liberate the well-performing institutes from the clutches of the regulators by a variety of policy initiatives, such as the Graded Autonomy Scheme under UGC, as well as the recently-announced Institutes of

Eminence scheme. Under the Graded Autonomy Scheme, in May 2017, institutes across the country are classified in categories Grade I to Grade III, and conferred varying levels of autonomy according to their stature and performance. Grade I institutes, for instance, have the power to confer degrees, start their own courses, and establish off-campus centres abroad.¹¹ Whereas under the Institutes of Eminence scheme, 10 public and 10 private institutes will be supported to become world-class institutes. While the public institutes will be funded to the tune of INR 1,000 crore each, both the categories will be free of any regulation by the UGC or AICTE.¹² Currently, however, only six institutes have been selected for the status of Institutes of Eminence.¹³

On 27 June 2018, the MHRD floated the HECI Bill, 2018, which seeks to repeal UGC. The draft bill aims to take away funding powers from the proposed HECI, and hold it responsible for restoring the autonomy and maintaining the academic standards of the institutions.

DISSECTING THE HECI BILL, 2018

At a time when the Government of India is vying for a place for its local institutes in global rankings, it is imperative to grant the highest level of autonomy to the consistently performing institutes to help them grow and excel. With the HECI Bill, 2018, the MHRD claims to do just this. Although being almost identical with the UGC in its mandate, the HECI Bill stands out in certain aspects, which this brief will discuss in turn.

Composition of the commission

The Chairperson will be selected by a Search-cum-Selection Committee (ScSC), which will consist of the Cabinet Secretary, Secretary Higher Education and three other eminent academicians who will be chosen by the existing members. The Vice Chairperson will also be appointed in a similar manner, with the addition of the Chairperson as one of the ScSC members.¹⁴ This indicates the heavy government hold on the proposed Commission as all the members of the ScSC are government representatives. Unlike the older UGC Act that also involved such appointments of government officials but kept this provision ambiguous enough, this bill is explicitly stating that the members of the HECI will be appointed directly by the ministry, instead of an independent ScSC.

Unlike the older UGC Act, the HECI Bill consists of 12 members besides the Chairperson and the Vice Chairperson. The UGC had 10 such members. Members of the HECI will comprise the following:

- Three members representing the Central Government – Secretary Higher Education, Secretary of Ministry of Skill Development and Entrepreneurship, and Secretary Department of Science and Technology. The government representation in the UGC Act was restricted to two members.
- Two other members will represent regulatory bodies like the AICTE and NCTE, and two other members are chairpersons of the 'executive

council/governing body' of accreditation bodies. These are also already existing Central government appointees.¹⁵

- The other two members are the Vice Chancellors of universities, who are, by provision of the Act for the establishment of any Indian university, a central/state government appointee. While this provision exists in the UGC Act as well, the number is not specified.¹⁶
- Two remaining members are proposed to be professors of universities. In the previous UGC Act, representation of university teacher was not less than four persons.¹⁷
- Lastly, one member is what is termed as a 'doyen of industry' – a much-appreciated move – but even this provision existed in some form in the older UGC Act.¹⁸

Of the 12 members, at least nine are direct or indirect representatives of the central government. With such overrepresentation of the government, it is arguable how the HECI will remain free of political interference and how its inherent constraints will not trickle down to the lowest level of administration in the HECI as well as the institutions under its fold.

Advisory Council

The HECI's Advisory Council will be chaired by the Union Minister for HRD. Its other members will include all the HECI members, and Chairpersons/Vice-Chairpersons of all State Councils for Higher Education. This is the only provision where States have some

representation. However, the role of this council is merely advisory and non-binding. Although Higher Education Secretary R Subrahmanyam claims¹⁹ in a newspaper interview that the recommendations of this council will be binding, there is no such specific provision in the bill itself. Unless specified, there are chances of abuse as the HECI legislation and its contents, when enacted, will prevail over any such ambiguity. Subrahmanyam also stated in the same interview that the Commission cannot possibly have representation from all 29 States, but the drafters of the HECI Act could have come up with an alternative body instead of calling it 'advisory'.

Moreover, the constitution of members in the HECI Bill is such that other than the Chairperson and the Vice Chairperson, there are no full-time members who will ensure and oversee day-to-day proceedings of the Commission. The other members are office-bearers of important institutions. It is also surprising to see that the 'management, accounting, technical and scientific experts' are all temporary members of the HECI. Unless this is rectified, HECI might meet the same fate as the UGC.

THE FUNCTIONS OF HECI

For a regulatory organisation to function properly, the power to grant funds should be separated from that over academic matters. While the HECI Bill has taken this principle with sincerity, it has not specified how the higher education institutes (HEIs) will be funded. In the bill's present form, it is precarious to confer such power to a

government body of political constitution as this will end up curbing the freedom of HEIs (their vice-chancellors as head of institutes), who will have to defer to politicians to obtain money for their institutions. For so long, the discrepancies in disbursing money to state universities under UGC has paralysed India's university system; the present HECI bill seems to take it up a notch higher by handing the system over to the MHRD.²⁰

Moreover, even with the function of overseeing “academic matters”, the HECI Bill specifies certain absolute functions for the Committee. These need to be analysed.

Restoring autonomy: One of the main functions vested in the proposed HECI is the promotion of autonomy in institutes of higher education.²¹ While even the older UGC Act proposed to maintain standards in university education, the HECI Bill goes into the specifics of showing which areas of education will be regulated. For instance, the new bill proposes to “specify” learning outcomes for courses of study in higher education and lay down standards for teaching as well as assessment, which includes curriculum development. This goes against the grain of the argument that the autonomy of an institution is achieved only with financial, academic and administrative independence. The present HECI Bill, like the UGC, seems to aim to micromanage the academia. However, an institute of higher education should have the freedom to innovate with its curriculum on the basis of regional diversity, build newer forms of assessment and not just theoretical examinations, and thereby, judge students based on the skills acquired.

Similarly, the HECI will “specify” the minimum qualifications for faculty recruitment, recommend “faculty-centric governance structure” in Higher Education Institutes (HEIs), and even set standards for judging faculty performance and thereby incentivising them. The UGC Act too, laid down such standards, but after seven decades of its existence, it has in fact managed to “discourage innovation and diversity” in teaching.²²

Moreover, under the provisions of the bill, the central government will have powers to remove the members of the HECI for several reasons. This too indicates government's hold over the proposed body.

Fee fixation: The most striking aspect of the bill is its interference with the fee structure of HEIs. While its mandate does not include having jurisdiction over the finances of an institute, the HECI Bill in fact proposes to “specify” norms and processes for the fixing of fees. This is no different from what the UGC did, albeit under the garb of a different nomenclature – “regulation of fees”. UGC's interference has led to several state public universities charging nominal fees (several times less than the market price) across-the-board for all students, irrespective of the economic strata they come from. Consequently, HEIs found ways to surpass the regulations by launching “self-financed courses” that have been criticised by various analysts for their quality and content.²³

Accreditation system: The HECI Bill seems to indicate either a shift in the current system of accreditation or plans to rejig the National

Assessment and Accreditation Council (NAAC) and other bodies. In either case, given the history of accreditors in the country, it seems like a conflict of interest for the HECI, or any one body under it (not specified in the bill currently, if NAAC continues to fall under its purview) to accredit institutions for quality and standards.

THE WAY FORWARD

For decades, the UGC has been criticised for corruption and its mismanagement of the country's higher education system. Several committees, commissions, analysts and scholars have recommended ways of rethinking higher education regulation in India.²⁴ However, as this analysis of the current HECI Bill reveals, the country's policymakers have been neither innovative nor progressive in replacing a regulatory body whose archaic nature restricted the growth of India's higher education system. The UGC Act did not need marginal changes; rather, it called for an overhaul in both spirit and letter.

The HECI Bill in many ways mirrors the top-down approach of the erstwhile UGC. The big drawbacks of the UGC remain unchanged in the new bill, including Central government stronghold, limited inclusion of States, no thought on financing, and excessive involvement in day-to-day affairs of an institution.

Another aspect to consider is the devolution of only the UGC. As discussed earlier, key to the debate in higher education is the presence of multiple regulators with conflicting principles and objectives. Even the recommendations made by past committees

such as the Yash Pal Committee in 2009 and the Hari Gautam Committee in 2015, justified an overarching single regulator that can remove the multiplicity and restore institutional autonomy by letting HEIs function without unnecessary overregulation. The HECI Bill proposes to do just the opposite. It does not justify why higher education in India should continue to be fragmented by the AICTE, NCTE, ICAR, and other regulators. As reiterated by Prof Yash Pal himself, ideas and creativity flourish when disciplines crossover. Moreover, when the country is rooting for building world-class multi-disciplinary universities, the HECI Bill looks like a step backward.

Thus, the following salient points need to be considered before scrapping the UGC and replacing it with an alternative regulator such as the HECI that cannot do justice to this transformational phase of higher education in the country:

- **Need for a study:** There must be a thorough study of the failures and successes of the UGC. Any new regulator that replaces it should address each point with all sincerity to ensure smooth functioning of all kinds of universities, especially State Public Universities. Moreover, reports of such studies should be made public, unlike the Hari Gautam Committee Report, and used by policymakers to rectify past errors.

Any new Act that defines the role of a regulator should have a section on precise goals and objectives, and lay down the purpose of education and milestones it strives to achieve. A new regulator should

aim to restructure Indian institutions into multidisciplinary centres where learning, research and skills training happen simultaneously. The absence of such a framework will only lead to directionless growth of institutions that will not be able to aptly educate and skill students for jobs of tomorrow.

- **Composition of a new regulator:** A new regulator should not only address the shortcomings of the UGC, but all regulators that currently exist in the higher education ecosystem. One way to do that could be by having an overarching regulator that will consist of members of all other existing profession-specific regulators. The primary task of this “super” regulator will be to oversee other constituent regulators. This regulator will only be responsible for setting standards for education in institutions for each profession and will not interfere in matters of finances and functioning of these institutes.
- **Empowered and independent Search-cum-Selection Committee:** The committee formed to appoint the executive members of such a regulator should be an independent body of national and international experts, including academics with commendable profiles and expertise, and scientists and policy professionals, among others. Such a body needs to be free of political interference, thus no central government representation is needed in its executive body. This committee as well as the new regulator should ideally report to a non-

partisan body, such as perhaps the Office of the President. This is possibly the only way of keeping vested interests and political motives at bay from a sector that cannot afford to fall prey to such vices.

- **State-level representation:** There needs to be fair representation of all States in more statutory positions. The regulator should have its State branches, and regular meetings and workshops should take place for the coordinated functioning of all arms.
- **Governance in HECI:** One of the major reasons for the inefficiency of UGC was the failure of the governance system within the body as well as its role in the governing of institutions under it. The systems must be decentralised, both at the level of the regulatory body as well as the universities it looks over. The Chairperson or the Vice-Chairperson should not be the sole steerer of functions, rather there should be absolute participation of all individual members in the matters of decision. This body should have the independence to react to market changes and effect policy reforms without the approval of any higher government body. It should function with utmost transparency and get itself peer-evaluated and audited.

Similarly, this body should not interfere in the functioning of the institutes by presiding over the functions of vice chancellors or registrars. Institutional matters should be the concern of not just the administrative and executive bodies of universities, but also individual faculty.

A similar governance structure is visible in our standalone institutions such as IITs, IIMs, and IISc that have stood the test of time and have maintained their excellence while being away from direct government control.

- **Accreditation:** NAAC, with its expertise in accreditation since 1994, can become a “super accreditor”. It must mentor and guide private and public accreditors in assessing the health of the institutes.²⁵ Currently, institutes pay NAAC to get accredited, giving rise to a conflict of interest. Instead, private entities should be allowed to accredit with meticulous training by, and supervision of NAAC. Since accreditation is assessment of quality of education as well, faculty members from universities and affiliated colleges need to get involved – with regular training from NAAC. If an institute is dissatisfied with such an accreditation, it can appeal to NAAC, which can do a second round of check, or assign any other random accreditor to do the task. This will ensure transparency in the process.
- **Fee regulation:** While a regulating body should not interfere with an institute's system for fixing fees, several academics worry about the arbitrary fee charged by some private institutions that ultimately burdens the students. In this context, instead of setting the fees, the state governments can set a differential tuition fee component for institutions. They should, however, only set an upper limit by conducting a thorough market study

of the existing courses. This should be reviewed every three years. The scholarships and fee waivers should continue to exist for economically and socially backward students.

- **Funding:** A separate professional and independent entity needs to be formed that will disburse need-based funds to all universities and affiliated colleges, without any prejudice against any states or type of institution. For an autonomous institute to become independent, it is desirable that it starts raising its own funds and eventually become financially independent. Excessive dependence on state money has caused the health of India's institutes to deteriorate over the years. However, while encouraging institutes to start raising money, the system of graded autonomy needs to be used, where the able ones should be supported by the government for research and infrastructure, while the weaker ones need to be buoyed till they attain that level of excellence. The government, however, needs to support institutes irrespective and the additional funds so raised by them need to be used for supplementary purposes. Raising money also brings competitiveness and transparency among institutes, which can eventually help increase their efficiency and quality.

CONCLUSION

The current HECI bill is low on innovation and ambiguous in various details. While

deliberating on policy issues, it is important to release the fine print publicly, so as to engage in genuine interaction with stakeholders and civil society.

At a time when India's economy is among the fastest growing in the world, the education system needs to complement it by producing skilled and educated workforce that can accentuate this economic growth. Therefore, new policies need to be transformative and progressive in their approach. While the current HECI Bill rightfully segregates a regulator's funding and quality control aspects, a lot more thought needs to go into ensuring its efficacy in the current education

scenario. India has a relatively low enrolment rate of 25.8 percent in higher education,²⁶ and if there is a desire to bring India's higher education to world standards, the country's policies need to be imaginative and attack the deficiencies of the status quo. This would require the mushrooming of multidisciplinary universities that will conduct high-quality research and teaching. Creating additional regulators for singular disciplines will only widen the gap and will not serve the purpose of new legislation. ORF

(With inputs from **Sanchayan Bhattacharjee**, Associate Fellow, ORF Mumbai.)

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ENDNOTES

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