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A CRITICAL STUDY OF REGULATORY SYSTEM FOR UNIVERSITIES IN CONTEMPORARY INDIA VIS-A-VIS REGULATORY MECHANISM PREVALENT IN THE WESTERN WORLD

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ABSTRACT

Exponential growth of universities in private sector in India in twenty first century changed the higher education landscape and brought numerous challenges also to the cause of higher education due to the absence of a proper regulatory mechanism and keen interest of educational entrepreneurs in profit making. The paper tries to explore benefits and damages private universities have caused to the higher learning in the growth of university education and tries to assess the present mechanism to regulate university education in India by comparing it with regulatory mechanism in the US and the British Universities. By exploring loopholes in regulatory system for universities particularly for private universities the paper tries to highlight demerits of improper regulation of universities. Paper also discusses the mechanism prevalent in the western world to regulate universities' working. Finally, a regulatory mechanism for Indian universities is proposed to make them match to the western universities. The qualitative research method based on literature review with historical and exploratory research design has been adopted to conduct the research. The purpose is to highlight loopholes and efficiency of regulatory mechanism prevalent in India and in the west. Primary and secondary sources are used to highlight merits and demerits of university regulatory system in India and to put forward best practices in the West.

KEYWORDS: University Regulatory Body, UGC, Private University, Not for Profit University.

1. INTRODUCTION

Universities all over the world have been major indicators of the intellectual and scientific progress. The haphazard growth of private universities just in the era of liberalization in India in 1990s contributed to take higher education to maximum eligible population but the temptation to earn money by educational entrepreneurs in absence of proper regulatory body for Private Universities caused damage also to the cause of higher education. The regulatory mechanism for private universities needs to be in line with the system in the western world for universities in the west are highly regarded and rated today in terms of quality of education, fairness and outcome.

Higher education is the backbone of research and innovation activities in a country. Modern higher education system revolves around the universities which have turned up pivot of the entire academic activities, taking place at higher education level.¹

International Commission on Education for Twenty First Century by UNESCO accepts following four functions of the University.²

1. To prepare students for research and training.
2. To provide training on the courses oriented to the needs of society.
3. To be open to all to foster life- long learning in its broadest sense.
4. To strive for international co-operation.

The first European University (Modern University) was established in Bologna, Italy in 1088 A.D. Universities in Paris in France and Oxford in England followed this in Twelfth century. First Modern University of The United States of America came into being as Harvard University in 1636 A.D. Earlier European universities were centres for travelling teachers and scholars. In Thirteenth century, these universities developed into educational centres oriented to meet the demand for civil servants. Berlin University was founded in 1810 A.D. with the objective of integrating teaching with Research. Borrowing this concept Universities of Stanford, Berkeley and John Hopkins were established in US in late Nineteenth century to promote research activities. Till 19th century universities were known as elite centres for the

privileged. Gradually most of them became egalitarian institutions with more focus on extension activities, conceived to serve the society directly. Rapid development in political, scientific and economic front radically changed universities and their curriculum. IT revolution resulted in globalization of education particularly in second half of Twentieth century. This was the time when most of European and American universities transformed themselves from affiliating universities to private university model.³

University Education in British India-

After the recommendations of Wood's Despatch of 1854 three modern universities were established at Bombay, Calcutta and Madras in the year 1857 A.D. in imitation of the London University. All these universities including Punjab University founded in 1882 A.D. and Allahabad University founded in 1887A.D. were primarily the affiliating universities whose major function was to conduct exams and award degrees.⁴

Along with the growth of universities, higher educational institutions grew in the country with private or governmental support throughout the British provinces. Most of these colleges were running courses in streams of Arts and Sciences. Professional higher educational institutions like Roorkee Engineering College and King George Medical College also flourished and catered the professional needs of society. These colleges were mostly affiliated to one or another university of the region who provided degrees after completion of prescribed programme by the University concerned.⁵

In 1902, during Lord Curzon's Viceroyalty, the Indian University Commission was appointed to review the prevalent university system in India. On the recommendations of the commission The Indian Universities Act was passed in 1904 A.D. Lord Curzon's observation clearly shows the nature of Indian universities at that time. He says 'How different is India. Here the university has no corporate existence in the same sense as on Oxford and Cambridge in England. It is not a collection of building; it is scarcely even a site. It is a body that controls courses of study and sets examination

¹ Qamar, F. (2021). Self-Financed Private Universities in India: Genesis, Growth and Policy Implications. *Journal of Higher Education Policy and Leadership Studies*, 2(2), 69-81. doi:<https://doi.org/10.52547/johepal.2.2.69>

² Delors, J. (1996). *UNESCO*. Retrieved September 03, 2024, from UNESCODOC: <https://unesdoc.unesco.org/ark:/48223/pf0000109590>

³ Moran, J. (2022). The Humanities and the University: a Brief History of the Present Crisis. *Critical Quarterly*, 1-24. doi:<https://doi.org/10.1111/criq.12679>

⁴ Yang, R. (2022). Globalization and Internationalization of Higher Education in the Asia-Pacific. In W. O. Lee, *International Handbook on Education Development in Asia-Pacific* (pp. 1-17). Singapore: Springer Nature Singapore.

⁵ Sharp, H. (1930). *Selections from Educational Records Part I, 1781-1839*. Delhi: National Archives of India, Delhi.

papers for the pupils of affiliated colleges. They are not part of it. They are frequently not in the same city, sometimes not in the same province.⁶ Although the Commission rejected the demand of establishing new universities, but it put forth some suggestions in connection with the improvement in the administration and academic activities in the university like appointing Professors and Lecturers and providing facilities for research work.

From 1887 A.D. (when the Allahabad University was opened) to 1916 the growing demand for university education was met by increasing the number and size of affiliated colleges not by founding new universities. Meanwhile demands were being raised by few leaders and kings of two communities (Hindu and Muslim) to open separate denominational universities. Both the communities wanted all India level higher educational institutions from where literary and religious teaching could be spread among the coming generations of these communities. Ultimately succumbing to these demands a Hindu and Muslim universities were opened in Benaras (1916) and Aligarh (1920) respectively by the statutes of Government of India. These were purely teaching and residential universities somewhat in the line of contemporary western counterparts.⁷

The Hindu University of Benaras and Muslim university of Aligarh were the results of long negotiations between the religious bodies concerned and the Central Government, the latter decided that it was more in the interest of education in India to allow each community a small Unitary university in a town of their choice.⁸

Seven new universities came into existence during 1916-1921 A.D. namely Mysore, Patna, Benaras, Aligarh, Dacca, Lucknow and Osmania. In 1920 the Government of India recommended the Sadler Commission Report to be implemented for the reform of existing universities and for the establishment of new universities.⁹

The Great Depression (between 1929 to early 1940s) affected the growth of higher education system in India, as only one university came into being during 1930s with the establishment of University of Travancore in 1937 in the State of Travancore, which is now the state of Kerala. Before partition three additional universities came into being and they were Utkal(1943), Sagar(1946), and Rajputana(1947). After partition, India had a total of 19 universities capable of providing Higher Education to its people.¹⁰

Era of Public Universities in post-independence India-

The spirit of reforms in higher education can be seen throughout the years 1947 to 1989. Strong links between higher education and the idea of national development for an independent India are suggested by policies and policy recommendations. First time in 1948, the University Education Commission raised concerns about Indian university education and made recommendations for corrective action and after that with the government of India's full support, the University Grants Commission was eventually established.¹¹

The universities which came up after independence were either created by State Legislature (Provincial Legislature) or Union Legislature (Parliament). These universities were known as State University and Central University respectively. The era of more regulated university education began with the coming of University Grants Commission (UGC) in the year 1956 A.D. through an act of Parliament. UGC was founded to coordinate university education in the country and set guidelines for maintenance of standard of university education and research throughout the country. It also became the funding agency for universities through which funds from central government released for promotion of teaching,

⁶ Minerva. (1966). *Indian University Reforms*. Springer Nature. Retrieved September 11, 2024, from <https://www.jstor.org/stable/41821755>

⁷ Tripathi, S. (2019). A comparative Study of University System in India and United States. *Shodh Sanchar Bulletin*, 9(36), 72-77. Retrieved September 17, 2024, from https://www.researchgate.net/profile/Santosh-Tripathi-8/publication/378712692_A_Comparative_Study_of_University_System_in_India_and_United_States/links/65e6a041adf2362b6377fae8/A-Comparative-Study-of-University-System-in-India-and-United-States.pdf

⁸ Tripathi, S. (2019). A comparative Study of University System in India and United States. *Shodh Sanchar Bulletin*, 9(36), 72-77. Retrieved September 17, 2024, from https://www.researchgate.net/profile/Santosh-Tripathi-8/publication/378712692_A_Comparative_Study_of_University_System_in_India_and_United_States/links/65e6a041adf2362b6377fae8/A-Comparative-Study-of-University-System-in-India-and-United-States.pdf

⁹ Sharp, H. (1930). *Selections from Educational Records Part I, 1781-1839*. Delhi: National Archives of India, Delhi.

¹⁰ Karl J. Schmidt. Armonk, N. Y. (1995). *Atlas and Survey of South Asian History*. London: Cambridge University Press.

¹¹ Aithal, P. A. (2019). Analysis of Higher Education on in Indian National I Education Policy Proposal 2019 and it ts Implementation Challenges. *International Journal of Applied Engineering and Management Letters*, 1-34. Retrieved September 04, 2024, from <https://zenodo.org/records/3271330>

research and other infrastructure of the universities.¹²

Further in 1964, the government received suggestions from the Kothari Commission 'on the national pattern of education. The national pattern of education includes establishment of major universities, programmes of qualitative improvement, enrolment and university governance. In 1967 the committee of the members of parliament said that the nation's universities develop themselves into autonomous communities of teachers and students who are actively engaged in the learning and excellence.' When higher education became the foundation for further expansion and sustainability, the National Policy of Education of 1986 was seen as a crucial period for the nation. According to the policy, specific goals for higher education include expanding access to higher education; enhancing its quality and enhancing its relevance and focus on employment.¹³

Era of Private Universities after Liberalisation-

In 1990s when free trade was encouraged in all the areas of the service sector, education was no exception. We know that awareness and interest of higher education had risen sharply among middle class. The growth of women education was a direct cause for increase in student enrolments throughout India. The effect was an increase in the level and quality of services as the higher education sector was no longer confined within a specific target segment. This marked the beginning of commodification and a wave of consumerism which largely affected the traditional concept of higher education. This growth in students' population throughout encouraged the government to look for better alternatives as government controlled higher education system did not have the right kind of infrastructure to support such huge number of enrolments. This was primarily because at this juncture, the expenditure on higher

education had fallen to 0.35% of GNP and this was marked as the first step towards extensive private higher education framework that exists currently.¹⁴

Although privatization was important, India was not ready culturally to accept the metamorphosis, especially in the field of education. Therefore, Government regulated apex bodies like AICTE (All India Council of Technical education) were thought of to regulate the service quality in a privatized framework but only in few fields of education.

In 1990s, the situation changed, and the country strengthened higher education by addressing changes in enrolment patterns and Justice Punnaiah Committee provided their assessment of the financial health of higher education and institutions in its 1993 report, along with financing recommendations. The central advisory board of education recommended that the Ministry of Human Resource Development create centralized legislation to make it easier to establish and manage private universities, deemed-to-be universities, self-financing institutions, and foreign universities in India.¹⁵

A private university in India refers to a university created through a State Legislature (a state Act) that is self-financed (or privately financed) and must conform to national regulatory requirements (UGC rules) for recognition, degree-awarding powers, program standards and territorial jurisdiction; these institutions differ from central universities and from "deemed-to-be" universities in their legal foundation and financing model.^{16 17}

Economic reforms and changing state approaches to higher education after the 1991 Liberalization created political and fiscal space for private participation and new state Acts permitting privately financed universities.¹⁸ The mid-1990s saw the earliest formal state-Act private/PPP models in higher education (examples often noted in the literature as signalling the sector's formal start).¹⁹ The

¹² Aithal, P. A. (2019). Analysis of Higher Education on in Indian National I Education Policy Proposal 2019 and it ts Implementation Challenges. *International Journal of Applied Engineering and Management Letters*, 1-34. Retrieved September 04, 2024, from <https://zenodo.org/records/3271330>

¹³ Tripathi, P. a. (2022). ANALYSIS OF THE INDIAN NATIONAL EDUCATION POLICY 2020IN REFERENCE TO THE HIGHER EDUCATION AND ITS RELEVANCE IN FUTURE. *Shikshan Aani Samaj*, 53. Retrieved September 04, 2024, from https://www.researchgate.net/publication/374784831_ANALYSIS_OF_THE_INDIAN_NATIONAL_EDUCATION_POLICY_2020_IN_REFERENCE_TO_THE_HIGHER_EDUCATION_AND_ITS_RELEVANCE_IN_FUTURE

¹⁴ Punnaaya, K. (1992-1993). *UGC Funding of Universities in Higher education*. New Delhi: UGC. Retrieved from <https://www.ugc.gov.in/oldpdf/pub/report/9.pdf>

¹⁵ Punnaaya, K. (1992-1993). *UGC Funding of Universities in Higher education*. New Delhi: UGC. Retrieved from <https://www.ugc.gov.in/oldpdf/pub/report/9.pdf>

¹⁶ Tilak, J. B. (2003). Privatization of higher education in India. *International Higher Education*, 11-12.

¹⁷ Commission, U. G. (2003). UGC (Establishment of and Maintenance of Standards in Private Universities) Regulations, 2003 (as notified). Government of India. Retrieved from <https://megeeducation.gov.in/dhite/acts/emaintenance.pdf>

¹⁸ Tilak, J. B. (2003). Privatization of higher education in India. *International Higher Education*, 11-12.

¹⁹ Qamar, F. (2021). Self-financed private universities in India: Genesis, growth and policy implications. *Journal of Higher Education Policy and Leadership Studies*, 2(2), 69-81. doi:<https://dx.doi.org/10.52547/johepal.2.2.69>

2000s saw many states enact umbrella Acts to allow private universities leading to a steady multiplication of self-financed/state-private universities alongside private (self-financed) colleges. This expansion drew growing policy and academic attention to issues of access, equity and quality.²⁰ The Supreme Court recognised the right to establish and administer private (including minority) educational institutions while allowing “reasonable” state regulation; scholars treat this as a pivotal legal protection that shaped private university expansion in *T.M.A. Pai Foundation v. State of Karnataka* case of 2002.²¹

Recent empirical studies and survey data (AISHE) record large increases in the number of privately managed higher-education institutions and in private universities’ contribution to total enrolment and institutional counts which can be characterised as a “mushrooming” of self-financed institutions with mixed implications for quality and equity.²² In the academic year 2021-2022, out of 1168 Universities registered, 685 are Government managed (Central Govt. 240, State Govt. 445), 10 are Private Deemed (Aided) and 473 are Private (Un-aided).²³

UGC Regulation of 2003 on Establishment and maintenance of standards in Private Universities tried to regulate Private Universities’ establishment and working but to least success due to inherent causes like establishment of Private University is in hands of different provincial legislatures while quality control is the task assigned to union government agencies like UGC, AICTE, BCI etc. While narrating background of the Regulation of 2003 it says ‘For private universities belonging 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, etc.’²⁴ Though

the regulation does not go into details of the mechanism the UGC will follow to correct working of these profit making entities which have cropped up in the name of private universities. In around two decades period of opening of university enterprise for private players there have been substantial growth in their number but simultaneously compromising with the quality of education due to profit making motto of the new category of higher educational entrepreneurs.

Working of Private universities in India

University system in India had developed on the pattern of universities of United Kingdom during the British Rule where university is given the task of affiliating colleges and teaching simultaneously. Universities in UK function under full control of Government having most of the members of governing Council from the Government. The similar pattern was adopted in India making universities established by the Legislature and having Ex officio members in its governing bodies ensuring more intervention of the government in the working of Central or State Universities. Even after independence the same pattern continued with the formation of University Grants Commission as a guiding body for the universities along with its power to regulate various grants for university education.²⁵ In the era of liberalization higher education sector was opened for private players paving way for opening of private universities in 1990s.

Overall, GER in higher education rose to 28.4% in 2021-22. A key enabler has been capacity added by private universities, whose numbers reached 391 (of 1,168 universities) in 2021-22, making them the second-largest university type by count. More seats and geographic spread increase the numerator of GER (enrolment), especially in underserved states.²⁶

Enrolment in state private universities (teaching

²⁰ Shah, N. (2015). Regulatory structure of higher education in India (IGC Working Paper. *International Growth Centre*. Retrieved August 25, 2025, from <https://www.theigc.org/sites/default/files/2015/11/Shah-2015-Working-paper.pdf?utm>

²¹ *T.M.A. Pai Foundation & Ors. v. State of Karnataka & Ors* (Supreme Court of India 2002). Retrieved August 19, 2025, from <https://blog.ipleaders.in/t-m-a-pai-foundation-ors-vs-state-of-karnataka-ors-2002/?utm>

²² India, M. o. (2024). *All India Survey on Higher Education (AISHE) 2021-22: Final report*. New Delhi: Government of India. Retrieved August 25, 2025, from <https://aishe.gov.in/aishe-final-report/>

²³ Government of India, M. o. (2022). *All India Survey on Higher Education 2021-22*. New Delhi: Department of Higher Education, Government of India. Retrieved September 17, 2024, from <https://cdnbbsr.s3waas.gov.in/s392049debbe566ca5782a3045cf300a3c/uploads/2024/02/20240719952688509.pdf>

²⁴ Parliament, I. (2003). UGC (ESTABLISHMENT OF AND MAINTENANCE OF STANDARDS IN PRIVATE UNIVERSITIES) REGULATIONS, 2003. 1-5. New Delhi: The Gazette of India. Retrieved from https://www.ugc.gov.in/oldpdf/regulations/establishment_maintenance.pdf

²⁵ UGC Act 1956, (1956). 12 (B), 15. New Delhi: Gazette of India. Retrieved September 05, 2024, from https://www.ugc.gov.in/oldpdf/ugc_act.pdf

²⁶ Ministry of Education, G. o. (2024). *All India Survey on Higher Education (AISHE) 2021-2022*. New Delhi: Press Information Bureau. Retrieved September 01, 2025, from <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1999713&utm>

departments & constituent/off-campus units) increased from 2.7 lakh (2011–12) to 16.2 lakh (2021–22)—about a 497% jump—directly adding to total higher-education enrolments that determine GER.²⁷

At the university level, private universities accounted for 26.3% of total university enrolment in 2021–22, indicating a substantial direct contribution to enrolment volumes feeding into GER.²⁸ The NEP 2020 target is 50% GER by 2035; sustained growth of private universities is explicitly one of the capacity mechanisms envisaged to reach this goal (alongside expansion/consolidation of public HEIs).²⁹

With the coming of Private Universities though the sphere of higher education increased covering more eligible population for higher studies, but it brought in many issues too particularly regarding working of Private universities. Few of these issues are as follows-

(a) Issue Related to Finance-

Education in India is placed in the concurrent list of the constitution i.e. both the central government and the state governments are independent in its context. It has some qualities and some defects. The Central Government regulates higher education through the University Grants Commission Act 1956. Central universities and recognized universities receive 100 percent grant, but the state government's universities, which are more in number, often provide funds for development only under the Five-Year Plans, various states themselves bear the normal expenses. Many provincial governments have trouble in carrying the full burden of ordinary amount, which leads to deterioration in the quality of higher education. Prior to 1976, Education was entirely the responsibility of the states, but by the 42nd constitution amendment made in 1976, the five subjects which were removed from the state list and placed in the concurrent list, included education. It is worth noting that the Centre and the states work together on the topics included in the concurrent list.³⁰ The issue of finance has affected functioning of Private Universities more as financial vulnerability of educational entrepreneurs hampers smooth

functioning and even leads to quality compromise in private universities' educational activities. Having no financial assistance from union or state governments, these private universities solely depend on the capital invested and recurring income, received from students in form of fee. The financial crunch of these universities results in either extra burden falling on student community or compromising with salary issues of teachers and other university staff. Section 12(B) of UGC Act 1956 prohibits any grant to Private Universities saying "No grant shall be given by the Central Government, the Commission, or any other organisation receiving any funds from the Central Government, to a University which is established after the commencement of the University Grants Commission (Amendment) Act, 1972 (33 of 1972), unless the Commission has, after satisfying itself as to such matters as may be prescribed, declared such University to be fit for receiving such grant."³¹ Such statutory provisions compel the Private universities to depend on self-finance sources leading to their deteriorated financial condition many times.

(b) Issue of Quality Education-

There are many dimensions of quality in higher education. Providing quality education with expansion in higher education is a major challenge. In terms of numbers, India's higher education system ranks third after the United States and China, but as far as quality is concerned, the ranking of Indian universities in the world's top universities is very low. Very few Indian educational institutions get a place in the top-200 world rankings. India today lacks educational institutions that can compete at the world standard level. In the absence of good educational institutions, the best students of the country go abroad for studies. Most of them settle abroad. It is a loss of intellectual property for the country. Quality is a major challenge in higher education in India. The National Board of Accreditation - NBA has been formed in the year 1994 itself. After evaluation of educational institutions by them, allocation is given to

²⁷ Niti Ayog, G. o. (2025). *Expanding quality higher education through states and state public universities (especially Table 3.1; Section 2.2 on enrolment trends)*. New Delhi: Government of India. Retrieved September 01, 2025, from

<https://www.niti.gov.in/sites/default/files/2025-02/Expanding-Quality-Higher-Education-through-SPUs.pdf>

²⁸ Ministry of Education, G. o. (2024). *All India Survey on Higher Education (AISHE) 2021–2022*. New Delhi: Press Information Bureau. Retrieved September 01, 2025, from <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1999713&utm>

²⁹ Education, M. o. (2020). *National Education Policy 2020*. New Delhi: Government of India. Retrieved September 01, 2025, from https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf?utm

³⁰ Kumar, M. (2019). Higher Education in India: History, Nature and Challenges. *International Journal of Social Sciences*, 107. doi: 10.30954/2249-6637.04.2020.4

³¹ UGC Act 1956, (1956). 12 (B), 15. New Delhi: Gazette of India. Retrieved September 05, 2024, from https://www.ugc.gov.in/oldpdf/ugc_act.pdf

educational institutions based on the grade assigned by them. Private Universities in India are still struggling to attract students due to their poor quality of education and therefore not able to compete with the world class universities. There being no dedicated higher education regulatory authority for the quality assessment of private universities. This situation leads to unregulated mushrooming and haphazard functioning of private universities.

(c) Lack of Research Activities-

Most of the private universities in India are 'For Profit' enterprises (though not declared) therefore focussing more on awarding degrees. In such a situation most of these universities are compromising on research and development activities, more because of lack of funding. This has deteriorated efforts for making universities hub of research activities. For API (Academic Performance Indicator) score which is required for increments and promotion of teachers some substandard research activities like publication of papers, Patent filing is done but most of them are of sub-standard and unable to compete with higher level research activities of developing countries.

(d) Issue of Low Wages-

Private universities in India depend on the capital invested by the educational entrepreneurs and the fee collected from the students at the university concerned. This makes the university work like a business enterprise and therefore prefer to employ people on low wages equally for teaching and non-teaching staff. Abundance of qualified human resource makes their task easy and usually the universities hire them at lower wages sometimes openly violating norms of payment laid by UGC. UGC having no regulatory power more often ignore this exploitation of human resource. The low paid teachers and staff therefore tries to settle in Government run Universities and consequently result in poor outcomes making these private universities B Grade educational institutions.³²

Need for a Dedicated Regulatory Body and Laws for Private Universities-

Even after 75 years of India's independence there is still no single umbrella body to take care of higher education although Ministry of Human Resource

Development takes care of higher education but being a political entity and burdened with several tasks of human resource development their attention towards progress of higher education gets diverted. The Ministry has power to approve the recommendations of Search Committee for appointment of Vice Chancellor of Central Universities. Similarly, Department of Higher Education in the Provinces is ultimately responsible for appointment of Vice Chancellor and other Executive Body Members of State Universities. This is not the case for appointment of higher officials in private universities. The owner or investor in Private Universities have free hand in appointment of their officials though under some guidelines mentioned in the Act or issued by UGC time to time. Very late the University Grants Commission issued regulation namely 'UGC (Establishment of and Maintenance of Standards in Private Universities) Regulations, 2003' to streamline working of private universities but merely being coordinating body it does not have punitive power in case of non-compliance of regulation by private universities. UGC has power to stop grants in case of non-compliance and the private universities being self-financed institutions do not depend on UGC grants for their own functioning. The UGC Act 1956 lays down the motive of the Act as 'An Act to make provision for the co-ordination and determination of standards in Universities and for that purpose, to establish a University Grants Commission.'³³ So it is more a coordinating body than a regulatory body. Regarding consequences of failure of Universities to comply with recommendations of the Commission, it lays down as 'If any University (grants affiliation in respect of any course of study to any college referred to in subsection (5) of section 12A in contravention of the provisions of that sub-section or) fails within a reasonable time to comply with any recommendation made by the Commission under section 12 or section 13, 2 (or contravenes the provision of any rule made under clause (f) or clause (g) of sub-section (2) of section 25, or of any regulation made under clause (e) or clause (f) or clause (g) of section 26,) the Commission, after taking into consideration the cause, if any, shown by the University (for Such failure or contraventions) may withhold from the University the grants proposed to be made out of the

³² Qamar, F. (2021). Self-financed private universities in India: Genesis, growth and policy implications. *Journal of Higher Education Policy and Leadership Studies*, 2(2), 69-81. doi:<https://dx.doi.org/10.52547/johepal.2.2.69>

³³ UGC Act 1956,. (1956). 12 (B), 15. New Delhi: Gazette of India. Retrieved September 05, 2024, from https://www.ugc.gov.in/oldpdf/ugc_act.pdf

Fund of the Commission.³⁴ This shows how weak UGC is to regulate functioning of Private Universities which also actually come through the State Legislature and therefore have the autonomous status and because of not depending on state funds they may behave arbitrarily.

There are some Councils to regulate higher education in some specific and technical areas but for most of the programmes run by the universities there is no regulatory body. Medical Council of India (MCI), All India Council for Technical Education (AICTE), Bar Council of India (BCI), Pharmacy Council of India (PCI) are such bodies taking care of specific areas like Medical, Engineering, Law and Pharmacy education respectively. There are domains like humanities, Languages, Fashion, Fine Arts, Applied Sciences where there are no such bodies to regulate. Private Universities independent of governmental control also sometimes ignore guidelines of these Councils. The AICTE Act 1987 provides 'An Act to provide for the establishment of an All India Council for Technical Education with a view to the proper planning and co-ordinated development of the technical education system throughout the country, the promotion of qualitative improvement of such education in relation to planned quantitative growth and the regulation and proper maintenance of norms and standards in the technical education system and for matters connected therewith.'³⁵ But AICTE also lacks punitive power on violation of norms and standards except stopping grants and funds to the technical institutions. Clause 12(q) of the Act summarises punitive power on non-compliance of its directives as the Council can 'withhold or discontinue grants in respect of courses, programmes to such technical institutions which fail to comply with the directions given by the Council within the stipulated period of time and take such other steps as may be necessary for ensuring compliance of the directions of the Council.'³⁶ Though the Act provides it with the functions like (1) lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations; (2) fix norms and guidelines for charging tuition and other fees; (3) grant approval for starting new technical

institutions and for introduction of new courses or programmes in consultation with the agencies concerned; (4) advise the Central Government in respect of grant of charter to any professional body or institution in the field of technical education conferring powers, rights and privileges on it for the promotion of such profession in its field including conduct of examinations and awarding of membership certificates; (5) lay down norms for granting autonomy to technical institutions; (6) take all necessary steps to prevent commercialisation of technical education; (7) provide guidelines for admission of students to technical institutions and Universities imparting technical education; (8) inspect or cause to inspect any technical institution;³⁷ In such a situation though Private Universities depend on its mercy for starting a technical programme but due to not dependence on its funds they openly violate its directives in due course.

It is clear in the above discussions that whatever mechanism is used to regulate Private Universities in India, stands failed. Be it Education Ministry, UGC, Technical Councils or student bodies. We need to learn regulatory pattern from the university system prevalent in the US and the UK.

Regulation of University education in England and The United States

To understand working and the regulatory mechanism of higher educational institutions particularly the system prevalent in India we need to study two higher education systems of the western world that is England and the US more because higher education system in India was built up on the legacy of the British who ruled over India for around 200 years. US higher education is in great demands not only because the richness US society has earned through industrialization and professionalism but also for its high standard of higher educational institutions which cater the needs of modern generation for acquiring knowledge of science, technology and humanities.

The final award of degree awarding powers in England rests with the Privy Council; for university title it lays with the Privy Council for publicly funded institutions while alternative providers had to get permission to use University in their name under

³⁴ UGC Act 1956,. (1956). 12 (B), 15. New Delhi: Gazette of India. Retrieved September 05, 2024, from https://www.ugc.gov.in/oldpdf/ugc_act.pdf

³⁵ India, P. o. (1987). THE ALL-INDIA COUNCIL FOR TECHNICAL EDUCATION ACT, 1987. 1. New Delhi: Gazette of India. Retrieved September 05, 1987, from <https://www.aicte-india.org/downloads/aicteact.pdf>

³⁶ India, P. o. (1987). THE ALL-INDIA COUNCIL FOR TECHNICAL EDUCATION ACT, 1987. 1. New Delhi: Gazette of India. Retrieved September 05, 1987, from <https://www.aicte-india.org/downloads/aicteact.pdf>

³⁷ India, P. o. (1987). THE ALL-INDIA COUNCIL FOR TECHNICAL EDUCATION ACT, 1987. 1. New Delhi: Gazette of India. Retrieved September 05, 1987, from <https://www.aicte-india.org/downloads/aicteact.pdf>

the Companies Act 2006, the recommendation in both cases coming from the Higher Education Funding Council for England (HEFCE) via the relevant government department (in England) or from the Welsh Government. There were further technical changes in 2015 before a complete overhaul of the system in England under the Higher Education and Research Act 2017. (Higher Education and Research Bill : Introduction to the Higher Education Market Entry Reforms, 2017) This saw the abolition of HEFCE and its replacement by the Office for Students (OfS). A new tier of degree awarding powers – bachelor's degree awarding powers, allowing the award of degrees up to level 6 on the Framework for Higher Education Qualifications was introduced. Under this act, degree awarding powers were made available on a probationary basis, termed 'New DAPs (Degree Awarding Powers)' to providers without a track record in higher education, who had previously had to have a validation agreement with a recognised body to establish a track record prior to gaining their own powers. Providers with a track record of ten years or more can apply for time-limited 'Full DAPs' and those who have held time-limited degree awarding powers for more than three years can apply for 'Indefinite DAPs'. Another change is that degree awarding powers can now be limited to some subjects rather than covering all possible degrees at that level as previously. There is also an intention to make it possible for institute to gain research degree awarding powers without taught degree awarding powers. The OfS will take over the responsibility of granting degree awarding powers and university title from the Privy Council and will also be responsible for the awarding of university title to institutions outside of the publicly funded higher education sector.³⁸ The Act gives Of the ability to remove indefinite degree awarding powers and university title from any institution in England, including those granted by royal charter.

The Office for Students (OfS) is the independent regulator of higher education in England today. It regulates universities and colleges to ensure they deliver 'positive outcomes' for past, present and future students. It is an executive non-departmental public body, sponsored by the Department for Education (DfE). The OfS was

established by the Higher Education and Research Act 2017 (HERA), coming into existence on 1 January 2018. It inherited parts of its role from two previous bodies – the Higher Education Funding Council for England and the Office for Fair Access.³⁹

In the US, the words College and University are often used interchangeably. Some are even called institutes (e.g., Massachusetts Institute of Technology, California Institute of Technology). Within larger universities in the United States, there are different colleges or schools that represent different academic areas of study (e.g., College of Engineering, School of Business). In the United States, the federal government does not manage any college or university. Instead, the governments of the individual 50 states, the District of Columbia, Puerto Rico, and other US territories have the authority to operate, fund, and (in some respects) control public colleges and universities within their boundaries.

The privately managed Institutes or Universities are categorised as follows based on their purpose, area and funding-

Faith based or Denominational Universities/Institutes- These institutions are private and affiliated with religious organizations. They often belong to groups like the Council for Christian Colleges & Universities (CCCU) or related bodies (e.g., King University is Presbyterian-affiliated). Their governance typically involves a board of trustees, often guided by religious values and traditions. Education at these schools often integrates faith and learning, emphasizing not just academics but also spiritual and moral development (e.g., Seattle Pacific University and Georgetown). Their core mission may include shaping leaders who serve both their faith communities and society at large.⁴⁰

For Profit Universities/ Institutes- These are privately owned institutions (often by corporations or investors) that aim to generate profit. Revenue primarily comes from tuition and student aid, with little reinvestment in education. Governance reflects financial priorities, and leadership may include executives focused on returns to shareholders. Accreditation is often national, which may limit transferability of credits – whereas nonprofit schools more frequently hold regional accreditation. For-profits institutions have lower graduation rates and inferior employment outcomes compared to

³⁸ *Higher Education and Research Bill : Introduction to the Higher Education Market Entry Reforms.* (2017). Retrieved August 10, 2024, from Digital Education Resource Archive: <https://dera.ioe.ac.uk/id/eprint/28153>

³⁹ Students, O. f. (2022). *Securing student success: Regulatory framework for higher education in England.* Bristol: HH Associates Ltd. on behalf of the Controller of His Majesty's stationary Office. Retrieved September 05, 2024, from https://www.officeforstudents.org.uk/media/1231efe3-e050-47b2-8e63-c6d99d95144f/regulatory_framework_2022.pdf

⁴⁰ Jack, A. (2024, September 5). *Building belief in business education.* Retrieved from Financial Times: <https://www.ft.com/content/5c52a0ab-4e45-4458-9aa4-ca5d1cbab908>

nonprofits, but they fulfil higher educational needs of a community which has money but comparatively lacks academic merits.⁴¹

Not for Profit Universities/ Institutes- Operate as public charities or educational nonprofits. Revenue is reinvested into the institution—for academics, research, facilities—not distributed as profit. Funding sources include tuition, government grants, endowments, and donations. These universities get funding from government grants but comparatively less grants than the public sector universities and colleges for example- In 2020–21, private nonprofits received only about 9% of their revenue from government, while public ones received much more (approx. 40%). Typically these universities have higher graduation and retention rates; more respected by employers due to rigorous accreditation and broader academic programs .A nonprofit's surplus goes into scholarships, faculty, facilities, which can enhance student experience and institutional prestige.⁴²

In The United States to launch a university or College for higher education one needs to apply for approval from the State government agency in the State where you want the university to be located in. This agency is typically a Division of the State's department of education. For instance, in California, it is the Bureau for Private Post-Secondary Education. The application package should typically include mission, governance system with the names of trustees and board members, the names of the programs and the associated curricula, market feasibility, technologies to be used if e-learning is involved, etc. The State agency will also expect to see a human resource plan (letters from potential faculty members with 'intent' to teach, for instance). Sometimes, it is mandatory that the entity seeking university status be first registered as a for-profit or nonprofit organization.

Alternatively, private colleges can operate on their own, without direct control from state or national governments. For instance, hundreds of private colleges in the US were founded by religious denominations or churches, such as the University of Dayton (affiliated with the Catholic church) and the University of the Pacific (a Methodist university).⁴³

Every Private University in the US is a corporation

registered in a specific state, and therefore subject to laws and regulations regarding such corporations. Most are nonprofits, so governed by separate laws. In United States most states have an entity designed to promote coordination and collaboration between higher education institutions. Examples include the Alabama Commission on Higher Education, California Postsecondary Education Commission, Texas Higher Education Coordinating Board, Washington State Higher Education Coordinating Board, and The Georgia Department of Technical and Adult Education. For example The Alabama Commission on Higher Education, (a statewide 12-member lay board appointed by the Governor of Alabama, Lieutenant Governor, and Speaker of the House and confirmed by the Senate) is the state agency responsible for the overall statewide planning and coordination of higher education in Alabama, the administration of various student aid programs, and the performance of designated regulatory functions. The Commission seeks to provide reasonable access to quality collegiate and university education for the citizens of Alabama. In meeting this commitment, the Commission facilitates informed decision making and policy formulation regarding wise stewardship of resources in response to the needs of students and the goals of institutions. The agency also provides a state-level framework for institutions to respond cooperatively and individually to the needs of the citizens of the State.⁴⁴

Findings and Suggestions

University system in India has developed on federal pattern where union and provincial governments have equal rights to establish a new university even for making of a private university a separate law needs to be passed by either of Legislature. To coordinate and improvise university education there are agencies like UGC, AICTE, BCI, PSI etc. but there is no agency to regulate affairs of Private Universities for universities are supposed to be autonomous bodies. This has led to quality compromise on part of universities particularly private universities and there is no punitive power assigned to any agency including UGC to act against universities except withholding funds for public

⁴¹ Ellie, B. (n.d.). *Key Differences Between For-Profit and Nonprofit Colleges: What Students Need to Know*. Retrieved from All in the Difference:

⁴² Palaciano, A. (2025, July 09). *The Real Reason Private Nonprofit Colleges Cost So Much*. Retrieved from Investopedia.com: <https://www.investopedia.com/the-real-reason-private-nonprofit-colleges-cost-so-much-11768638>

⁴³ *American Education and Higher Ed System: The US Higher Education System Explained*. (2023, August 07). Retrieved September 05, 2024, from Shorelight: <https://shorelight.com/student-stories/the-us-higher-education-system-explained/>

⁴⁴ Agency, A. S. (1969). *About the Agency*. Retrieved September 05, 2024, from Alabama Commission on Higher education: <https://www.ache.edu/index.php/about-the-agency/>

sector universities. In such a situation not depending on state funds Private Universities may behave arbitrarily.

In England and The US Private Universities and Institutes must get themselves registered as Companies and Corporation and are therefore regulated by Corporate Laws of the land. At the same time Universities in England are responsible towards the state agencies like OfS which is a non-departmental public body to take care of positive outcomes from university education. Similarly in US the Union government has no intervention in establishing or regulating universities and the authority to establish and regulate universities lies with respective State Governments through dedicated agencies. For instance, in California, it is the Bureau for Private Post-Secondary Education to take care of University Education.

In the light of the above Indian University system needs to be regulated. The nature of universities in private sector must be properly classified as 'For Profit' and Not 'For Profit'. Private Universities 'For Profit' or 'Not For Profit' must be enrolled under Companies Act so as to keep vigil on there working and financial issues and being under apparent law

which prescribes norms and standard and also makes provisions for withdrawing degree awarding power from the universities for non-compliance of its regulations. Similarly, a dedicated regulatory body like OfS of England needs to be there either at Central or Provincial level to judge and guide these universities on quality of education and other norms laid by the Government concerned. This body should be empowered to decide Degree Awarding Power of these private universities. There is also a need to specify the degree awarding programmes of these universities for which they have sufficient physical and human resource infrastructure. Providing these universities a blanket approval to award any degree demean quality of education and motivates these private players to act arbitrarily. The regulatory body must not remain a government department but comprises all stake holders including teachers, students, government and company's representatives. For improving quality of education and promote research and innovation there is a need of resource sharing among these private players too and therefore like in the US there must be a non-government legal entity to coordinate and collaborate working of these private universities.

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