The Constitutional Provisions Regarding Indian Higher Education

Introduction

We have discussed in the earlier Block, how the colonial system of education in India was geared for a very specific purpose. However, Independence in 1947 aroused great hopes and fundamental changes were expected in the system of education. These hopes, sentiments and aspirations of the people were echoed by the national leaders. In 1948, Jawaharlal Nehru, in his inaugural address to the All India Educational Conference observed:

"Whenever conferences were called to form a plan for education in India, the tendency, as a rule, was to maintain the existing system with light modifications. This must not happen now. Great changes have taken place in the country and the educational system must also be in keeping with them. The entire basis of education must be revolutionized".

Against this backdrop it is interesting to place education in the context of the constitutional arrangements that obtain in India. After the transfer of power in 1947, India gave itself a Constitution which came into force in 1950. What are the details of this constitutional arrangement in respect to education? How have these worked? These are the important issues that need to be understood by everyone interested in higher education. Without a clear or adequate understanding of these Constitutional arrangements, it would not be possible to understand the functions and responsibilities of different agencies in the sphere of higher education, and to think of alternative ways of organizing the system or even reforming it.

In this unit we propose to discuss the Constitutional provisions which have a direct or indirect bearing on education.

Learning outcomes

Before embarking on a discussion on the development of education in post-independence period, it would be both interesting and useful to see the provisions under which the system of education operated in the British period. Following this, we would review the mechanisms that have been provided to higher education in the Constitution for fulfilling its obligations.

By the end of this unit, you should be able to

- understand the arrangements of higher education in the colonial period;
- enumerate different Central and State mechanisms helping the higher education sector;
- know the origin and functions of the University Grants Commission;
- discuss different Constitutional amendments regarding higher education; and
- evaluate the role of planning and funding in higher education.
Historical background

In order to understand what the Constitution of India lays down with regard to education, some understanding of the system as it prevailed before 1947 would be necessary.

Colonial government and higher education

When the East India Company established itself as a power in the sub-continent, everything was managed and controlled by the Governor-General then located at Calcutta. Throughout this period, in practice all education, from the lowest to the higher level was managed by the Governor-General-in-Council. Regional authority was vested in the provinces where Directors of Public Instruction (DPI) looked after lower levels of education. The universities, however, continued to be directly under the Viceroy and the Governor-General. It was in recognition of this fact that two Commissions, one in 1882 (Indian Education Commission) and another in 1902 (Indian Universities Commission) were appointed to report on the universities.

Education under diarchy

Another Commission, known as the Sadler Commission, was appointed in 1917-19 to inquire into the conditions and prospects of the University of Calcutta. Although the recommendations of the Calcutta University Commission or the Sadler Commission (1917-19) did not introduce any significant change in the governance of the universities, it is instructive to recall that the Commission did suggest a large measure of autonomy to the teaching body of the universities and advocated mature responsiveness to the needs of the students served by them. By the time it reported, the Morley-Minto Reforms had been introduced. In respect of education, this meant, transfer of the constitutional authority to manage education not only to the provinces but, furthermore, to Indian ministers. According to this scheme, the provincial government exercised powers under two headings. Some subjects were reserved and these were under the overall jurisdiction of the Governor who was the head of the provincial government and responsible to the Secretary of State for Indian Affairs and some subjects were transferred to Indian ministers who were responsible to a provincial legislature which consisted of a large elected majority. It was on account of this division of the provincial executive into two parts that the system got its name of diarchy and it was under this unusual form of a political constitution that Indians first obtained the control of the Education Department.

This system of diarchy continued till the introduction of the Government of India Act, 1935. According to this Act, the distinction between “reserved” and “transferred” subjects was done away with. Though the Governor had the power to veto any decision in case he felt it was necessary to do so, the authority could be exercised by the Indian Ministers. However, there was hardly any occasion when this power of veto was exercised.

Coordination

Once education became a provincial subject in 1921, the Central government found that it had no mechanism to coordinate with the provinces. Two important steps were taken to deal with this situation, one was to establish the Central Advisory Board of Education in 1921 and the second was to persuade the universities to set up an Inter-University Board in 1925. The former body had the Minister of Education from each State as its members, while on the latter body, each university was represented by its Vice-Chancellor. It may be noted that both these bodies provided platforms for ventilating views, and at best, tendering advice to the Government.
While in respect of education, the Act of 1935 did not lead to any significant change, except that it put an end to the inherently defective system of diarchy. This Act was particularly important in another respect. For the first time, a constitutional distinction was made between the powers of the Centre (Federation, as it was known in the 1935 Act) and those of the Provinces. Two lists of subjects were drawn up in this Act; one enumerated Central powers and the second, the Provincial powers. It was this very model of the division of powers between the Centre and the States which was taken over in the Constitution that free India gave to herself. In the Indian Constitution, there is a Central list and there is a State list and a third list which shows the areas in respect of which the centre has Concurrent powers, which means that in case a law is adopted by the Centre, it has to have precedence over the corresponding state law.

Self-assessment

1. What were the important constitutional landmarks with respect to higher education in India before Independence. In what way did they help evolve the status of higher education as it exists today?

Post-Independence developments – Constitutional provisions

After 1947, when it came to education, the 1935 Act model was not disturbed and education continued to be a state subject. However a number of influential persons, including Jawaharlal Nehru, the Prime Minister, and Maulana Azad, the Education Minister, felt that the Centre must have a say, particularly in respect of higher education. Maulana Azad used a phrase which bears repeating, he said that while “Central control” was not possible, “Central guidance” must be ensured.

Central provisions

The University Education Commission which had been appointed in 1948 under the Chairmanship of Dr. S. Radhakrishnan made an interim recommendation to the Government wherein it suggested that education be made a concurrent subject; the Constitution was then under preparation and a proposal in regard to the constitutional position of education was in order. This recommendation was not accepted by the Constituent Assembly, however. A compromise was worked out; under List-I of the Seventh Schedule wherein the powers of the Centre and the States are listed, certain entries were inserted which gave far-reaching powers to the Centre.

Entries 63, 64, 65 and 66 dealt with various issues regarding higher education. **Entry 63** concerned the control of institutions like the National Library, Calcutta, Universities (now often called ‘Central Universities’) like Banaras, Aligarh and Delhi. **Entry 64** dealt with institutions of scientific and technical education which may be financed wholly or in part by the Government of India and / or declared by Parliament to be institutions of national importance (the Indian Institutes of Technology are in this category). Agencies and institutions for professional, vocational or technical training or scientific or technical institutions could also be established by the Centre according to **Entry 65**. In the case of established institutions engaged in special kinds of educational programmes (on the recommendation of the University
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Grants Commission), the Central Government can declare them as “deemed to be” universities. There are many examples and they include the Indian Institute of Science at Bangalore and the Gujarat Vidyapeeth.

The most important of these entries is Entry 66 which reads as follows:

Coordination and determination of standards in institutions for higher education or research or scientific and technical institutions.

In terms of this Entry, because of the far-reaching scope of coordination in higher education, and of the need to maintain and enhance standards of higher education and research, the Centre came to exercise overall power in regard to higher and professional education. It would be relevant to note here that the U.G.C. Act of 1956 was passed as a consequence of and in terms of this entry. Later, in 1988, the All India Council of Technical Education (AICTE) was also established as a statutory body.

Other coordinating bodies

In addition to the UGC and the AICTE, there are a number of other central coordinating bodies also which derive their mandate mainly from Entry 66. Some of them may be listed as under:

- The Medical Council of India
- The Bar Council of India
- The Nursing Council of India
- The Indian Council of Agricultural Research
- The Pharmacy Council of India
- The Institute of Architects
- The Institute of Accountancy, etc.

There are other provisions also in the Constitution which empower the Centre to establish such professional bodies, for instance, the Bar Council of India has been established in terms of the Advocates Act, 1961.

The various coordinating bodies partly listed above are essentially professional in character, perform the role of laying down professional standards, helping institutions with funds in certain cases, and in general, help them to maintain professional standards. A certain degree of coordination is also achieved by these bodies. The oldest of them is the Indian Medical Council which was established as long ago as in 1935.

While most of these bodies are statutory in character, some are registered as societies under the Society Registration Act. In the first category are the University Grants Commission (1956) and the All India Council of Technical Education (1988). The more notable among the second category are the Indian Council of Agricultural Research (ICAR) and the Indian Medical Council. The intention of Entry 66 is, however, only partly fulfilled – firstly because ICAR and MCI are not statutory bodies to affect determination of standards and to coordinate education in their fields, and secondly, because overall coordination in higher education and research is not yet the responsibility of any of the existing bodies. With questions of planning education and research activities, of sharing of sophisticated and expensive facilities, and creation of new areas of interdisciplinary knowledge, the setting up of a Commission for Higher Education is being currently discussed.

Provisions in the States

In the State list, Entry 11 reads as follows:

Education including universities, subject to the provision of Entries 63, 64, 65 and 66 of List-I and Entry 25 of List-III.
We have discussed the content of these Entries in the previous section. It may be added here that Entry 25 List-III, Concurrent List, refers to vocational and technical training of labour.

As should be clear, education is listed as a State subject also and higher education includes universities as well. We have already seen that in respect of coordination and determination of standards, the Centre was given exclusive powers. How have the States fulfilled this constitutional obligation? Setting up and maintaining of schools, colleges and universities – with massive attendant expenditure is, by and large, a State responsibility. Almost every State budget spends approximately one-quarter of its total outlay on education, and there are States like Kerala which spend as much as 40 per cent of their budget on education.

The relationship between the Centre and the States in respect of education however is neither all that rational in its operation nor easy to manage. While the State budgets in respect of Non-Plan expenditure are decided upon by the States themselves, with regard to Plan expenditure, the Planning Commission has a role to play. Incidentally, the Planning Commission which is not a statutory body was established in terms of Entry 20 (economic and social planning) in the Concurrent List. With the passage of time, the Planning Commission has come to exercise considerable authority, largely for the reason that in terms of the fiscal relationship between the Centre and the States, the Centre has enormous financial resource and hence powers. If the States wish to secure Central help (and they cannot do without it), they, more or less, have to fall in line with the wishes of the Centre as expressed by the Planning Commission.

A brief reference to the Finance Commission would be in order here. According to the Constitution, it is appointed every five years and its job is to allocate funds to the States out of the central pool of income. This statutory process of the transfer of funds to the States makes bulk allocation. Sometimes States, after receiving the funds, divert them from one sector of education to another. Since funds are never adequate for the real needs of the educational sector, diversion of funds is often related to "pressures" which result in higher education being the beneficiary at the expense of primary education. But, of course, this does not mean that higher education gets as much as it needs.

**Coordination mechanisms at the centre**

Of the mechanisms at the Centre which have been helping the higher education sector, the following might be mentioned here. One is the University Grants Commission (UGC) which has a statutory status and field operation confined to the universities, largely dealing with colleges and faculties in general studies, and the others are the All India Council for Technical Education (AICTE), which was given a statutory status in 1988 and deals with Engineering institutes and colleges, the Indian Council for Agricultural Research (ICAR) which is still non-statutory in character and deals with agricultural universities and the National Council on Teacher Education (NCTE) related to teacher education. Each one of these bodies has been giving grants to universities and colleges in their related spheres. The National Policy on Education (1986) adopted by the Parliament had recommended the creation of a new body known as the Apex Body to ensure coordination amongst the different bodies.

**University Grants Commission (UGC)-genesis**

The first attempt to formulate a national system of education in India came in 1944, with the Report of the Central Advisory Board of Education on Post War Educational Development in India, also known as the Sargeant Report. It recommended the formation of a University Grants Committee, which was formed in 1945 to oversee
the work of the three Central Universities of Aligarh, Banaras and Delhi. In 1947, the Committee was entrusted with the responsibility of dealing with all the then existing Universities.

Soon after Independence, the University Education Commission (UEC) was set up in 1948 under the Chairmanship of Dr. S. Radhakrishnan “to report on Indian university education and suggest improvements and extensions that might be desirable to suit the present and future needs and aspirations of the country”. It recommended that the University Grants Committee be reconstituted on the general model of the University Grants Commission of the United Kingdom with a full-time Chairman and other members to be appointed from amongst educationists of repute.

In 1952, the Union Government decided that all cases pertaining to the allocation of grants-in-aid from public funds to the Central Universities and other Universities and institutions of higher learning might be referred to the University Grants Commission. Consequently, the University Grants Commission (UGC) was formally inaugurated by late Shri Maulana Abul Kalam Azad, the then Minister of Education, Natural Resources and Scientific Research on 28 December, 1953. The Prime Minister, Pandit Jawaharlal Nehru, addressed the inaugural meet.

![Image](image-url)

**Figure 1** The Late Prime Minister, Pandit Jawaharlal Nehru, addressed the inaugural meet

The UGC, however, was formally established only in November 1956 as a statutory body of the Government of India through an Act of Parliament for the coordination, determination and maintenance of standards of university education in India. In order to ensure effective region-wise coverage throughout the country, the UGC has decentralized its operations by setting up six regional centers at Pune, Hyderabad, Kolkata, Bhopal, Guwahati and Bangalore.

**Composition**

The UGC comprises a Chairperson, Vice-Chairperson and ten other members appointed by the Central Government. The Chairperson is selected from among persons who are not officers of the Central or State governments. Of the ten members, two represent the Central government (specifically, the ministries of Human Resource Development and Finance) while at least four must be university teachers at the time of their selection. Other members are selected from amongst eminent educationists and experts in various other fields.
**Funding**

In order to execute its responsibilities, the UGC receives both Plan and Non-Plan grants from the Central government. It allocates and disburses full maintenance and development grants to all Central Universities, colleges affiliated to the Delhi University and Banaras Hindu University and some institutions that have been accorded the status of 'Deemed to be University'. State universities, colleges and other institutions of higher education receive support only from the Plan grant for development schemes. In addition, the UGC also provides financial assistance to universities and colleges under various schemes / programmes for promoting quality, excellence, teaching and research.

**Figure 2 University Grants Commission**

**Mandate**

The UGC has the unique distinction of being the only grant-giving agency in the country which has been vested with two responsibilities: that of providing funds and that of coordination, determination and maintenance of standards in institutions of higher education.

The UGC’s mandate includes:

- Promoting and coordinating university education.
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- Determining and maintaining standards of teaching, examination and research in universities.
- Framing regulations on minimum standards of education.
- Monitoring developments in the field of collegiate and university education; disbursing grants to the universities and colleges.
- Serving as a vital link between the Union and State governments and institutions of higher learning.
- Advising the Central and State governments on the measures necessary for improvement of university education.

Some important deletions

In the 1951 draft of the Central council, which was the forerunner of the present day UGC, there were two crucial provisions which came to be subsequently deleted. One was to the effect that no university could describe itself as one, unless the Centre approved it in specific terms. This implied that no new university could be set up without the approval of the Central Council. The second important provision was in regard to derecognition of degrees. The Central Council had been vested with the power to do so, in case a university failed to perform at a tolerable level.

However, in the UGC Bill, as finally adopted, both these crucial provisions were deleted. Initially, it was also intended that the financial needs of the universities would be determined by the UGC, but the finance ministry thought that this power transgressed on their responsibilities and would lead to divergent financial projections. In spite of Mr. Jawaharlal Nehru, the then Prime Minister being in favour of entrusting highly placed academics with determining best ways of spending what resources were provided to them, the final Bill watered down this provision. The 50s and the 60s saw the setting up of forty to fifty new universities, and presently, the total number is about 220. While new institutions are set up, the old are provided insufficient funds for operating at a high level. The number of colleges are being added at the rate of more than 200 per year! Not that there is too much of higher education; it is obvious that the demand is more than the supply. On the other hand, there is a serious point of view of finance as well as coordination being a bit chaotic.

The UGC Act was amended in 1972 and was given the power to refuse grants to universities whose establishment could be authorized only if they fulfilled conditions regarding autonomy and finances.

UGC- recent initiatives

Some of the major initiatives taken by the UGC in improving the quality and standards of higher education are:

- Improvements in the quality and standards of teaching and research, through programmes for setting up Centres of Advanced Study and Research, improvements in college teaching, strengthening research and infrastructure, etc.
- Periodic review and renewal of curricular content of courses in various disciplines, and special schemes for introduction of emerging areas of education and training.
- Establishment of common facilities for research networking of resources for information and documentation.
- Induction of electronic media in higher education.
• Provision of scholarships and fellowships to students.
• Launching of special programmes for greater participation of women, disadvantaged groups and the weaker sections in higher education.

During the Ninth Plan period (1997-2002), general development assistance to individual universities was provided. The universities and colleges can utilize the development assistance being provided by UGC for consolidation of existing infrastructure, for the modernization and also for extension and outreach activities to meet the changing needs and challenges of higher education.

The UGC has been implementing the programme of Career Orientation to Education (Vocationalisation of Education) since 1994-95, devised in conformity with the National Policy of education, 1986 (revised in 1992). The purpose of this programme is to ensure that the graduates have knowledge, skills and attitudes, for gainful employment in the wage sector in general, and self-employment in particular, so that undue pressure on post-graduate courses is reduced.

The UGC also supports universities financially to meet cost of innovative programmes in new and emerging fields. Some of the areas are environmental energy, bio-technology, electronics, futurology, atmospheric sciences, remote sensing sciences, superconductivity, computer applications, etc.

During the Ninth Plan, a programme of adult, continuing education, extension and field outreach has been implemented. Financial assistance has been provided to 85 universities during the Ninth Plan period for implementing programmes such as literacy, post literacy, continuing education, environment education, legal literacy, technology transfer, etc. Since the beginning of the Ninth Plan, the UGC has also been deputing teachers from universities and colleges to work with Bharat Gyan Vigyan Samiti (BGVS) and Bharat Jan Vigyan Jatha (BJVJ).

The UGC has been providing financial assistance since 1986 for setting up study centers or cells for women studies, which undertakes research, develop curricula and organize training and extension work in the areas of gender equity, academic self-reliance of women, girls’ education, population issues, issues of women rights, social exploitation etc. At the end of the Ninth Plan, 34 Women Studies Centres in various universities are in operation. The UGC has also requested the Indian universities to set up a permanent cell in each university for combating sexual harassment of women in the university campuses as per the directions of the Supreme Court of India.

Self-assessment
2. Discuss the role of the UGC in the maintenance of standards. Also discuss the constraints faced by UGC in the performance of its role.

All India Council for Technical Education (AICTE)

The AICTE was set up in 1948 as an advisory body to assist the Central government in the planning and development of technical education at the post-secondary level.
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Education in Engineering and Technology, Architecture, Management and Pharmacy is within the purview of the AICTE. In 1988, the AICTE was constituted as a statutory body under an Act of Parliament.

The major function of the AICTE is the planned and coordinated development of technical education in the country. In the performance of its functions, the AICTE works in close coordination with the UGC as far as technical education programmes offered by the Universities are concerned.

The AICTE coordinates, and supports the development of engineering colleges, management education institutions and polytechnics engaged in the training of technicians. Development support is provided by the AICTE to universities (through the UGC) and engineering colleges and polytechnics for their expansion, as also for improvements in their quality and standards.

Among the major programmes supported by the AICTE are review and renewal of the curriculum for the education and training of engineers and technicians. Modernization of the laboratories and workshops, removal of obsolescence, establishment of community polytechnics, technology forecasting, manpower planning, training of teachers, preparation of norms of standards for programmes of education and training in various disciplines at different levels, and extending the benefits of technical and training to the backward and rural areas.

A significant feature in the development of technical education in the last two decades or so is the emergence of self-financing institutions in private sector which do not depend on government grants, but recover their costs from students in the form of fees. Some of these institutions had their origin in what was then known as “capitation fee” institutions which were set up by private agencies in response to the increasing social demand for professional and technical education, especially, in medicine and engineering. Most of them were charging exorbitant fees, and the facilities provided, in many cases, were much below the essential requirements. Legislative measures are being envisaged to regulate the levels of fees that could be charged. There have also been legislations, and the Supreme Court, dealing with a number of cases on the subject, has directed that the Government and its agencies should lay down the principles on the basis of which institutions could levy fees.

National Council for Teacher Education

The National Council for Teacher Education (NCTE) was set up in 1973 by a Government resolution as a national expert body to advise Central and State governments on all matters pertaining to teacher education. The Council was made a statutory body by an Act of Parliament in 1993.

The primary function of the Council is to ensure planned and coordinated development of teacher education and determination and maintenance of its standards. For the performance of this function, the Council lays down norms for specified categories of courses for granting recognition to teacher training programme offered by various institutions including universities and colleges.

Indian Council of Agricultural Research

The Indian Council of Agricultural Research (ICAR) was established through a Government resolution for promotion of agricultural education and research in the country. The Council functions under the supervision of the Ministry of Agriculture.

Under the auspices of the Council, a number of research institutions and Agricultural Universities have been set up in the country. The ICAR provides funds to these institutions for their development.
Open University System

The country has also developed an open university system and the Indira Gandhi National Open University (IGNOU) set up in 1985 has nation wide jurisdiction in the field of distance education. A Distance Education Council (DEC) has been established as a statutory authority under the IGNOU Act, which provides development funds placed at its disposal by the Central Government. The open university network has established common pool of programmes consisting of contributions from different open universities, which can be shared by any open university through the process of adoption, adaptation and transmission. IGNOU has received international attention and recognition and the Commonwealth of Learning has recently conferred the status of excellence in distance education on the IGNOU.

Arrangements in States

In respect of States, the administrative arrangements are more or less the same as those prevailing before 1947. The format basically remains the same, but some of the details have been modified, for instance, every State has a Directorate of Public Instruction (DPI). Owing to large-scale expansion, however, some of the States have a DPI each for primary education, secondary education and college education. This however, is not the pattern in every State.

In addition, most States have Directors of Technical Education heading separate departments. This Directorate might be handled by the State Minister of Education or by a separate minister. The Director of Technical Education, in addition to college level institutions, also looks after Industrial Training Institutions (ITIs) and other similar institutes.

Medical education is almost invariably a separate department and is usually looked after by the Minister of Health. In some of the States there is also a Director of Medical Education though in other states. This job is handled by the Secretary of Health himself.

Similarly, in the case of agricultural education, the job is most often looked after by the Secretary of Agriculture. Hardly any State has a Director of Agricultural Education though some of the States do have agricultural colleges: U.P., for instance, has approximately two dozen of them.

The educational administration in the States is usually headed by Indian Administrative Service personnel, members of which are transferable and hence there is lack of intimate knowledge and commitment to this sphere of special concern.

Ministry of Human Resource Development

At the Central level, a new concept, that of human resource development, was projected in 1985, and a ministry with that nomenclature was set up. In addition to education, the Ministry of Human Resource Development (HRD) looks after the welfare of women and children and also sports. Education is not a ministry (as of the middle of 1990) it is a department in the Ministry of HRD. Once again changes may be in the offing.

At the State level, no such corresponding change has yet been made. In consequence, different sectors of education are handled by different agencies. For that matter, the ideal of coordination is far from realized even at the Centre. The Apex Body or the National Commission for Higher Education as and when it is established might be able to do something but it should be clear beyond doubt that coordination at both Central and State levels leaves a lot to be desired. State Councils of Higher Education have also been visualized in the NPE, and some States have come forward to set up such bodies in order to properly plan and support higher education and to assist the UGC in the coordination and determination of standards.
Plan and non plan grants

Budgeting in India distinguishes two sets of activities, one as Non-Plan or Non-Development or Maintenance budget, and the other as Plan or Development budget. In actual practice, the difference is more procedural than real, although conceptually the plan budget provides for growth diversification and innovation while the non-plan takes care of sustenance of the ongoing system. All activities of recurring nature taken up during plan period are classified as non-plan or maintenance activities after the plan is over. Thus non-plan or maintenance budget grows in size after the completion of every plan, the commitment is transferred to non-plan part of the budget.

The bulk of the funding in higher education comes from the States. Only Central universities receive their maintenance grants from the UGC; the rest are funded by the State governments. The agricultural universities receive Central funds. The Technical universities and the Engineering faculties of other universities, get development assistance through the UGC, while Engineering colleges in general receive such assistance from the AICTE. There is some coordination between the UGC and the AICTE. There is some coordination between the UGC and the AICTE in this respect.

It may not be out of place to mention here that the Indian Institute of Technology (IITs) are managed separately by the IIT Council which is presided over by the Union Minister of Education. They are neither within the purview of the UGC nor of the AICTE but have an independent status of their own as ‘Institute of National Importance’. The problem in respect of medical colleges is similar in that only medical faculties of new universities receive plan grants through the UGC. Medical colleges are related to the MCI and the Ministry of Health, but there is no satisfactory arrangement for giving them proper support.

Out of 18 Central universities, 16 are being allocated development grants while 14 are being allocated maintenance grants in addition to development grants. During 2001-02, the UGC provided an amount of Rs. 598.69 crores to meet the maintenance expenditure of 14 universities and Rs. 81.31 crores as development assistance to 16 Central universities.

According to section 12 (B) of the UGC Act, the State universities established after 17 June 1972 shall not be eligible to receive any grants from the Central government, UGC, or any other organization receiving funds from the Government of India, unless the Commission satisfies itself as per the prescribed norms and procedures, that such a university is fit to receive grants.

At present, there are 178 State universities. Out of these, the UGC has been making budgetary plan allocation for only 110 excluding medical and agricultural universities. However, the other State universities are benefitting from the UGC under various other programmes (like special grants). Development grants including grants for specific schemes are provided to all eligible State universities in order to facilitate procurement, augmentation and upgradation of infrastructure facilities that are normally not available to universities from the State government governments or other bodies supporting them. During the financial year 2001-02, Plan grants amounting to Rs. 175.62 crores were provided to 123 State universities for the purpose of development and 30 Deemed Universities have been provided plan grants amounting to Rs. 20.87 crores.

A review of the relationship between the UGC (as a mechanism of coordination) and the colleges makes it amply clear while more than one-third of UGC budget is spent on basic and development grants to established colleges, the total quantum is woefully short since the number of colleges runs into thousands. Secondly, colleges come to be established at the initiative and with the sanction of State governments
who are then responsible for the maintenance grants. The UGC is not involved in the process at any stage. In fact, the UGC comes into the picture long after the college has been established and has reached a certain stage of development so that in terms of the number of students, faculty strength and the minimum of other basic facilities, it qualifies to apply for UGC grants. According to the UGC, about a third of the colleges do not come up to the standards which would attract UGC assistance. On the other hand, both with respect to colleges and State-run universities, when the UGC plan grants are provided, they often require a small share (for example, in construction of hostels) as a token of participation of the concerned State government, and this share is scarcely available. At times, the State governments are unable to say whether by the end of a particular Plan, they'll be able to take over the expenses of dispensing salaries to the staff concerned, this again causes a situation of uncertainty. In the following section, let us get an idea about budgeting.

Table 1 Growth of recognized educational institutions from 1950-51 to 2000-01

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In this section, we propose to discuss two major constitutional provisions that impinge on higher education. The first is an amendment while the other relates to the power of judicial review of the Supreme Court.

### The forty-second constitutional amendment

After the imposition of Emergency in 1975, the Constitution was amended in a number of respects. This was done in 1976 through the 42nd Amendment. One of its provisions was to make education a concurrent subject. Higher education in any case, was partly Central (because of the provisions for coordination and standards). Now the entire field of education, from primary to university level, became a concurrent subject.

As pointed out, under the constitutional scheme, “education” is in the concurrent list, and the Union government and States exercise joint responsibilities. As a result, while the role and responsibilities of the States in regard to education remains unaltered the Union government accepts a larger responsibility to reinforce the integrated character of education to maintain quality and standards, to study, and monitor the educational requirements of the country as a whole. The coordination and cooperation between the two Union and States is brought about in the field of education through the Central Advisory Board of Education (CABE).

### Judicial review and higher education

According to the Constitution, laws passed by the Parliament are subject to review and interpretation by the court. This power of judicial review which has been borrowed from the American Constitution, is one of the central features of the Indian Constitution and has played a notable role in the evolution of public policies.

With regard to higher education a number of judgements have been given by the courts. The most important of them was the one given in 1963 in respect of the decision of Gujarat University to make Gujarati the sole medium of instruction and examination. This decision was challenged by a student. The Supreme Court laid down that since the medium of instruction had a direct bearing on academic standards, this decision of Gujarat University could hurt that objective. Hence the decision of Gujarat University was declared **ultra vires**.

<table>
<thead>
<tr>
<th>Year</th>
<th>Students (000s)</th>
<th>Postgraduate (000s)</th>
<th>Faculty (000s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1985-86</td>
<td>4067</td>
<td><strong>1533</strong></td>
<td>126</td>
</tr>
<tr>
<td>1990-91</td>
<td>4862</td>
<td>886</td>
<td>184'</td>
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<tr>
<td>1991-92</td>
<td>5058</td>
<td>950</td>
<td>@196</td>
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<tr>
<td>1992-93</td>
<td>5834</td>
<td>989</td>
<td>@207</td>
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<tr>
<td>1993-94</td>
<td>5639</td>
<td>1125</td>
<td>@213</td>
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<tr>
<td>1994-95</td>
<td>6089</td>
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<tr>
<td>1997-98</td>
<td>7199</td>
<td>2075</td>
<td>@229</td>
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<tr>
<td>1998-99</td>
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<td>7782</td>
<td>2124</td>
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</tr>
<tr>
<td>2000-2001</td>
<td>7929</td>
<td>2223</td>
<td>@254</td>
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(Source: Selected Educational Statistics 2000-2001)
Whether it was academically right or not to equate the role of the medium of instruction with the maintenance of high standards is a moot question and will continue to be debated for long a time, but one definite outcome of this judgement was that after that decision of the Supreme Court, the primacy of Entry 66 (with regard to the role of the Centre in coordinating and determining of standards) was fully established. In a manner of speaking, it was open to the Centre or its instruments like the UGC, to interpret any facet of activity as having a bearing on the maintenance of standards and thereby insist upon compliance with the Central directive. On the other hand, the early discussions regarding autonomy of the universities to lay down or observe their own norms of academic functioning, made the UGC to tread the path of maintenance of inter-university comparability of standards with great caution. So much so that the Public Accounts Committee of the Parliament had occasion to repeatedly criticize the UGC for having become just a funding body which neglected enforcement of standards. In order to ensure a measure of accountability and to evaluate the performance of institutions on the basis of objectively laid criteria, a system of accreditation of institutions of higher learning has been evolved in the aftermath of the 1986 Policy on Education.

As far as universities are concerned, the UGC took the initiative and established a mechanism called National Accreditation and Assessment Council (NAAC) as an autonomous council under the aegis of the UGC to carry out periodical assessment of universities and colleges in the country. The methodology developed by NAAC for assessment involves:

- a self-appraisal by each university / college on the basis of specified parameters and documenting its performance with reference to each of them;
- an assessment of the performance by an Expert Committee on the basis of probes identified in respect of each parameter;
- a peer review of the self-appraisal and expert’s evaluation; and
- a judgement of the performance.

The NAAC has developed the instruments for carrying out the evaluation studies and several universities and colleges have offered themselves for this assessment.

Similarly, the AICTE Act of 1988 envisages the establishment of accreditation mechanisms for institutions offering technical education programmes. The AICTE has since established a National Board of Accreditation (NBA) to initiate the accreditation of technical institutions. As a first step, the NBA has undertaken a detailed exercise for benchmarking the performance of premier institutions so that a frame of reference for the evaluation of the performance of the institutions can be initiated.

**State Councils of Higher Education**

One was the recommendation made by the National Policy in Education - 1986 (NPE) was to set up State Councils of Higher Education in each State. While formulating the policies, it was recognized that one problem which made functioning at the State level difficult was that there was no professional agency to deal with higher education at the state level. The agency in the form of the proposed council would not only help to plan and rationalize the funding of the universities, but also tie up with UGC, to assist in coordination of higher education and maintenance of standards.

In accordance with the recommendations made by the NPE, the UGC set up a committee to go into the question of the State Councils. The chairman of this committee was an ex-Chairman of the UGC. In addition, four Vice-Chancellors
and five Secretaries of education from different states were put on this committee. The committee reported in July 1987. A month later came the judgement of the Supreme Court which went against the U.G.C. and debarred it from proceeding with the matter.

The situation was, however, resolved a little later when Andhra Pradesh decided to pass a new Bill setting up State Council of Higher Education instead of persisting with the Commissionerate. State Council has been set up in Andhra; but it is difficult to evaluate its impact so far. The academic, as also the administrative functions of the Council have been elaborated, and it could become a model, so to speak, for other states. A couple of other states have moved in this direction (Tamil Nadu, for instance) and before long, most States would establish such Councils. Once that happens, it is likely that there would be a certain degree of improvements in the management of higher education at the State level. While one can, and a large number of persons actually do, criticize the functioning of the UGC and its failure to perform the task entrusted to it, it should never be overlooked that despite its infirmities and constraints, the UGC continues to play an important role in respect of a sector of higher education.

**Summary**

A review and analysis of the arrangements and mechanisms of coordination at the Centre and the States tells us that, as compared to the States, the Centre has much greater access to funding. Also, there is a greater degree of professionalism in Central operations and planning. But what is missing at both levels is the right kind of coordination. Even at the Central level, there is hardly any coordination among the various bodies which deal with higher education.

Real action, however, is at the State level. It is of considerable significance, therefore, that things improve at that level. While academic improvement depends upon how teachers perform, the financial and the managerial aspects are both controlled by the State governments. That is why it is important that things improve there.

Once the State Councils are set up in different states, it is hoped that the management structure at the State level would improve. A good deal will depend upon the choice of those who are asked to man these councils. If they are people of ability and integrity, it would make a marked difference. But if they are people who lack both stature and a professional approach to problems, the situation may not change in any significant way.

**Unit-end activities**

1. Is your university a State or a Central university? What are the mechanisms of its funding?

2. Briefly discuss about the courses that are funded by UGC in your university/college.

**Points for discussion**

1. What are the different courses in your university that receive funds from UGC? What is the enrolment pattern of boys and girls in various courses?

2. Do universities have women hostels? If they have, how effective they are in enhancing the enrolments of girls.
Suggested readings


