

# Legislative Brief

## The Universities for Research and Innovation Bill, 2012

The Bill was introduced in the Lok Sabha on May 21, 2012 by the Minister of Human Resource Development, Shri Kapil Sibal. It was referred to the Department related Standing Committee on Human Resource Development (Chairperson: Shri Oscar Fernandes), which submitted its report on February 26, 2013.

### Recent Briefs:

[The Criminal Laws \(Amendment\) Bill, 2012](#)  
March 4, 2013

[The Higher Education and Research Bill, 2011](#)  
December 28, 2012

**Kaushiki Sanyal**  
kaushiki@prsindia.org

March 15, 2013

### Highlights of the Bill

- ◆ The Bill seeks to allow the central government to set up Universities for Research and Innovation through notifications. These universities shall be deemed to be institutions of national importance.
- ◆ The central government may declare any existing public funded university to be a university for research and innovation after an expert committee (formed by the central government) has assessed it.
- ◆ A new university may be established by a promoter if he meets certain conditions. If the promoter is an organisation, it has to be a non-profit company, a society or a trust with proven expertise in innovation. If it is an Indian university, it has to be established for at least 25 years. If it is a foreign university, it has to be established for at least 50 years.
- ◆ The proposal for setting up the university has to be approved by the central government within six months as far as practicable.
- ◆ Each university shall constitute a committee to review the performance of the university within 15 years of it being set up. Subsequent reviews shall be every 10 years.

### Key Issues and Analysis

- ◆ The Bill creates a new category of universities. Some committees recommended that higher autonomy be given to existing universities rather than creating a new category of universities.
- ◆ There are two different requirements for foreign universities under this Bill and the Foreign Universities Bill, 2010 pending in Parliament. The 2010 Bill has higher compliance requirements for foreign universities.
- ◆ The Bill requires public funded universities to be audited by the CAG on parameters decided by the central government in concurrence of the CAG. This limits the power of the CAG to perform audits.
- ◆ The norms governing public funded intellectual property differ from that of the Protection and Utilisation of Public Funded Intellectual Property Bill, 2008 pending in Parliament.
- ◆ The Standing Committee made recommendations related to the mechanism of setting up universities, penalties and grievance redressal mechanism.

## PART A: HIGHLIGHTS OF THE BILL

### Context

The 11<sup>th</sup> Five Year Plan first proposed the idea of establishing 14 Innovation Universities, through a central legislation.<sup>1</sup> Acknowledging that setting up these universities would take time, the Plan stated that at least the locations for these universities should be identified during the Plan period.<sup>2</sup> The Draft 12<sup>th</sup> Five Year Plan states that by the end of the Plan period, 20 Universities for Research and Innovation would be set up. These could be public or private universities or they could be set up in the Public Private Partnership mode.<sup>3</sup> These universities would focus on one area or problem by building an ecosystem of research and teaching around related disciplines. Some of the areas include urbanization, public health and digital literacy.<sup>4</sup> In 2013, the UGC launched a Scheme on Innovation Universities, under which existing universities fulfilling certain eligibility criteria are entitled to receive a prescribed amount of funding.<sup>5</sup>

Currently, there are three mechanisms by which a university can be established. It can either be set up through an Act of Parliament or a state legislature. In addition, an existing institution may be notified as a deemed university by the central government on the recommendation of the University Grants Commission (UGC).

The Universities for Research and Innovation Bill, 2012, introduced in the Lok Sabha on May 21, 2012, creates another mechanism for establishing a university. It allows the central government to set up universities through a notification if the promoter of the university meets certain conditions.

### Key Features

- The Bill seeks to allow the central government to set up Universities for Research and Innovation as well as give such status to existing universities through notifications. Every such university shall be deemed to be an institution of national importance. They may also establish campuses in foreign countries.
- The key objectives of the universities shall be: (a) to achieve excellence in knowledge; (b) to conduct research to address societal problems; (c) to be transparent in admission, appointment and academic evaluation; and (d) to build linkages with research institutions and industry.

### Establishment of the universities

- Every university shall be a not-for-profit legal entity. All surplus generated by the university has to be reinvested for the growth of such university. An existing public funded university may be notified as a university for research and innovation after an expert committee (formed by the central government) has assessed it. A state university may be notified after the state legislature makes a recommendation through a resolution to the central government. Such status cannot be granted to existing private universities.
- A new university may be set up by a promoter if he meets certain conditions. A promoter can be an organisation or an existing university. If it is an organisation, it has to be a non-profit company, a society or a trust, which has financial capability and expertise in innovations in research. In case the promoter is an existing university, the requirements are different for an Indian and foreign university. An Indian university has to be established for at least 25 years and be accredited as a university of repute. A foreign university has to be in existence for at least 50 years and be internationally reputed.
- The promoter of each university shall submit a vision plan, a memorandum of agreement and a project report to the central government. The government shall either approve or reject the application within six months of receiving it. If the government approves, the draft memorandum has to be laid in both Houses of Parliament for at least 30 days while it is in session. Within that period, either House has the option of disapproving or modifying the draft memorandum. The final memorandum entered into by the government and the promoter shall include any modification made by Parliament.
- The government can reject the proposal on grounds such as: (a) applicant is not a “promoter”; (b) inability to show financial capability; (c) has funds from undisclosed or disreputable sources; and (d) if it is against national interest, security or sensitivity of the location.

### Functions of the universities

- Every university shall have the autonomy to (a) provide courses consistent with the objects of the university; (b) award degrees, diplomas and other academic distinctions; (c) institute teaching (including distance education), research or other academic positions; (d) appoint faculty and staff on such terms as it may deem

fit; (e) determine and receive fees and other charges; (f) provide infrastructure as required and (g) establish companies or incubation centres for application of knowledge and innovation.

- Each university shall determine the standards of education it will be providing. The standards have to be higher than the minimum standards in the relevant field as specified by any other law. If no standards are specified, the university shall aim to maximize relative global scales in the relevant field.
- If there is a dispute between the university and a statutory authority on standards of education, it shall be referred to a committee consisting of a nominee of the (a) statutory authority, (b) concerned university and (c) another university of research and innovation. The decision of the committee shall be final and binding.
- At least half the students admitted to a programme in the university shall be Indian citizens. Reservation is applicable only for such seats. For public funded universities, the Central Educational Institutions (Reservation in Admission) Act, 2006 shall apply. Private universities have to specify certain criteria to account for diversities in social and educational background.

### Management of intellectual property from public funded research

- When a university creates intellectual property (IP) through public funding, the Bill specifies certain requirement as to disclosure of IP to the government, the conditions under which the title may be retained by the university or refused by the government. The income or royalties received from the IP shall be given to the university, which shall share it with the intellectual property creator.

### Oversight of the universities

- The Board of Governors of each university shall constitute an Expert Group for Research Audit, which shall evaluate the research undertaken out of public funds on the basis of prescribed parameters. Based on the report, the Board shall take such action as it deems fit and report to the central government. The central government shall lay the action taken report in Parliament.
- The Board of Governors shall appoint an auditor to scrutinise the balance sheet and statement of income of the university. The accounts of a public funded university shall be audited by such auditor as appointed by the Comptroller and Auditor General (CAG). In addition, any grant provided by the central government to a public funded university shall be audited by the CAG only on such outcome based parameters as may be prescribed by the central government with the concurrence of the CAG.
- Each university shall constitute a committee to review its performance within 15 years of it being set up. Subsequent reviews shall be every 10 years. The recommendations of the committee shall be submitted to the central government which shall lay it in Parliament.

## PART B: KEY ISSUES AND ANALYSIS

### Different regulatory structures

Clauses  
6(2),(3);  
19; 40

This Bill creates a separate category of universities, which have the autonomy to determine their own standards (as long as they are higher than the minimum standards laid down by law). They also have the autonomy to decide on matters related to award of degrees, recruitment and salary of faculty, course curriculum, fees, and standards of education. Under the current regulatory system, all universities have to follow the regulations of the UGC related to award of degrees, faculty qualification, admission procedure, and fees. The only exception is for institutions of national importance, which may be regulated by the administrative ministry.<sup>6</sup>

Some commissions and committees have suggested giving higher autonomy to existing universities rather than creating a new category of universities. The National Knowledge Commission, in its report on the education sector, recommended that existing universities be reformed to make them hubs of research.<sup>7</sup> The Standing Committee examining this Bill questioned the creation of two different categories of universities, one which would have autonomy in certain areas while the other would not.<sup>8</sup> The Planning Commission also made similar suggestions in the Cabinet Note.<sup>9</sup>

Clauses  
38 and  
35(2)

The Bill also requires each university to review its performance periodically. Among the existing universities, only deemed universities have to undergo mandatory external review every five years. Other universities do not have this requirement. Also, the Bill states that the CAG can audit the public funded universities only on such outcome based parameters as may be prescribed by the central government in concurrence with the CAG. This implies that the power of the CAG to audit a university is restricted to certain parameters. It also differs from norms under which the CAG can undertake performance audit of existing public universities.<sup>10</sup>

## Differing norms for foreign universities

Clause  
9(c)

There are two Bills pending in Parliament that will allow the entry of foreign universities in India: the Universities for Research and Innovation Bill, 2012 and the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010. The standard of entry and regulation differ. The Standing Committee pointed out that the 2010 Bill has higher level of checks than envisaged in this Bill. It said that it is not proper to provide ‘an alternative and comparatively easier route’ to foreign universities through this Bill.

**Table 1: Difference between the two Bills**

Criteria	Universities for Innovation Bill, 2012	Foreign University Bill, 2010
Eligibility	Established as a university for 50 years and is reputed.	Established as a university for at least 20 years.
Corpus	No provision.	University to maintain a corpus fund of at least Rs 50 crore.
Norms	Autonomy on appointing faculty, determining fees and salary	Has to comply with the provisions of the UGC Act, 1956.

Sources: Universities for Innovation Bill, 2012; Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010; PRS.

## Public funded intellectual property

Clause  
28

This Bill specifies certain provisions to deal with utilisation of public funded intellectual property (PFIP). There is also a Protection and Utilisation of Public Funded Intellectual Property Bill, 2008 pending in the Rajya Sabha. The two Bills differ on certain grounds. The 2012 Bill requires the university to inform the government on actual realisation of the IP whereas the 2008 Bill specifies that the government has to be informed within 60 days of actual knowledge of the PFIP. Under the 2008 Bill, the institution needs the permission of the government to assign its right to the PFIP to any person or body. No such requirement is mentioned in the 2012 Bill.

## Key recommendations of the Standing Committee

The Standing Committee examining the Bill submitted its report on February 26, 2013.<sup>8</sup> The key recommendations are:

- The Ministry should identify a few existing central and state universities which may be given flexible governance structures and full autonomy on an experimental basis. The existing system of establishing universities through central or state acts should be made applicable to the proposed universities also. A Model Act on the lines of the parent Act governing central universities, IITs or NITs can be enacted.
- These universities should be set up with state funding before allowing private or foreign universities. Also, the Ministry should accelerate its efforts to reduce shortage of faculty. The Bill should include objects for each type of university: pure or basic science, humanities or social science.
- There should be a specific provision for penalties that may be imposed if the university contravenes the terms and conditions of the Memorandum of Agreement.
- Suitable provisions for women, persons with disabilities and persons from the weaker sections in admission and employment should be incorporated in the Bill.

### Notes

1. “Education,” Chapter 1, Volume II, Eleventh Five Year Plan.
2. Starred Question no. 138, Lok Sabha, Answered on July 13, 2009. Proposed locations: Amritsar, Greater Noida, Jaipur, Gandhinagar, Patna, Guwahati, Kolkata, Bhopal, Kochi, Coimbatore, Mysore, Pune, Vishakhapatnam, Bhubaneswar.
3. “Education,” Chapter 21, Volume III, Draft 12<sup>th</sup> Five Year Plan, Planning Commission.
4. “India-UK Round Table on Innovation: Text of Shri Kapil Sibal’s Speech,” Ministry of HRD, PIB, April 20, 2012.
5. “Scheme on Innovation Universities,” UGC (see [http://www.ugc.ac.in/pdfnews/3155745\\_InnovationUniversity.pdf](http://www.ugc.ac.in/pdfnews/3155745_InnovationUniversity.pdf)).
6. UGC Act, 1956; UGC (Establishment of and Maintenance of Standards in Private Universities) Regulation, 2003; Ministry of HRD; The Institutes of Technology Act, 1961; National Institutes of Technology Act, 2007; the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010.
7. “Report to the Nation: 2006-2009,” National Knowledge Commission.
8. 248<sup>th</sup> Report of the Standing Committee on Human Resource Development on ‘The Universities for Research and Innovation Bill, 2012’, February 26, 2013.
9. Cabinet Note for the Universities for Research and Innovation Bill, F.No. 4-40/2009-U.I.(A), April 2012.
10. The Jawaharlal Nehru University Act, 1966; The Delhi University Act, 1922.

DISCLAIMER: This document is being furnished to you for your information. You may choose to reproduce or redistribute this report for non-commercial purposes in part or in full to any other person with due acknowledgement of PRS Legislative Research (“PRS”). The opinions expressed herein are entirely those of the author(s). PRS makes every effort to use reliable and comprehensive information, but PRS does not represent that the contents of the report are accurate or complete. PRS is an independent, not-for-profit group. This document has been prepared without regard to the objectives or opinions of those who may receive it.