White Paper on EDUCATION SECTOR

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SECTION 1 - INTRODUCTION

1.1 Ease of Doing Business

The "Ease of doing business" is a World Bank index which is widely used to rank 189 countries for their present business laws and regulation environment every year. The index however does not take into account general conditions like macroeconomic indicators, market proximity, infrastructure etc. Further, "Ease of doing Business" ranking is characterised by the average of 11 sub-indices like starting a business, getting credit, electricity, registering property etc. A higher ranking indicates efficient and simpler regulations for business and strong protection of property rights. This index not only identifies the source of the obstacle for doing business in a country, but also serves as the basis for policymakers to compare the regulatory environment for business across countries and design more compelling regulatory reforms for future. India is one of the fastest growing economies in the world and has become one of the most attractive investment destinations in the world. On analysing "Ease of doing business" index for 2016, we observe that India has moved up its ranking to 130, up by 4 units as compared to the previous year. The improvement in ranking is mainly because of the ongoing reforms and the 2 major drivers are, "Distance to frontier" sub index where India outperformed all the South Asia countries since 2004. The biggest improvement came from "Getting Electricity" sub index where the ranking jumped to 70 in 2016 from 137 in 2015. In order to complement its economic growth, India has to set major reforms to improve "Ease of doing business" ranking and attract more investors.

While Government of India (GOI) is constantly encouraging investments, the Department of Industrial Policy and Promotion (DIPP) is complimenting the government's initiative by taking several initiatives to ease doing business in India. The future reforms taken by GOI must ensure that India is on equal footing amongst other countries in terms of flexible, favourable, efficient and transparent business environment.

With this in view, the British High Commission (BHC) has initiated a study called "Breaking Business Barriers" for various sectors in India which focuses on stakeholder engagement and arriving at insights around business barriers. Specific recommendations have been identified for each of these sectors. The main objective of this report is to emphasize on the retail sector and the various barriers faced by businesses. We hope that the findings of this report would help bring the issues of retail sectors to the forefront and also serve as a reference point for the imminent need to pursue reforms in business policies and processes.

1.2 Introduction to Breaking Business Barriers

Centre for Public Policy Research (CPPR) in association with the British High Commission (BHC) has taken up an initiative 'Breaking Business Barriers' aiming to curtail the regulatory barriers in setting up, operating and exiting a business in the state of Karnataka, Kerala and Tamil Nadu. The initiative focuses on easing the business in seven sectors - Drugs and Pharmaceuticals, Education, Energy,



Information Technology (Hardware & Software), Infrastructure, Retail and Manufacturing.

The initiative intends to enhance the development of a business-friendly environment in these states, by removing the regulatory barriers in doing business. The collaboration with the stakeholders has helped to identify the issues and challenges faced by them in operating the business and work towards finding a solution. In this regard, CPPR organized round table meetings with the Government representatives and business community in order to understand all relevant information regarding policies, taxation regimes, rules and other general information for doing business.

The website *EasyBiz* (*easybizindia.com*)*India* is created for the purpose of giving insights into the policy framework in the three states and measure state competitiveness. The website offers an interactive portal for the entrepreneurs to flag the issue faced by them in operating the business and work with one another to resolve the issue. The portal also has a clear process flowchart of the steps involved in starting a business (licenses, NOC, certificates) in the three states.

SECTION 2 - SECTOR OVERVIEW

2.1 Definition of the sector

In India, both the public sector and private sector provide education. It is controlled at the central, state and local level in terms of regulations and funding. The education system in India is divided into primary education, secondary education and higher education. Primary education contributes to a period of 10 years of education, followed by 2 years of secondary education and 3 - 4 years of higher education. Further, higher education is divided as arts/ science, technical and vocational/ professional education. Individual governing bodies monitors each of these divisions.

2.2 Education Sector in India

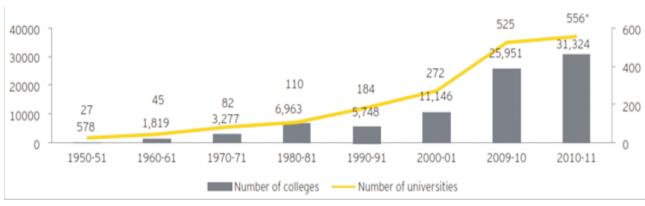
Over the past decade, the education sector in India has undergone several transformational changes. Education industry is one of the fastest developing sectors worldwide, generating large-scale revenues and employment for the nation. The Global education industry is the second-largest industry after healthcare.

In India, there are about 1.4 million schools and over 36,000 higher education institutes (IBEF, 2012). India has the largest number of higher education institutions in the world in terms of volume. However, access to Higher Education is limited to just 10 per cent of the student population (Abusaleh Shariff, Amit Sharma, 2014). As per the US-India Policy Institute Report, 2014, in the age group 22-35 years, over 15 per cent in the northern region and 13per cent in the southern region have access to higher education. This adds to the fact that only 4.5 per centof India's population is a graduate or above (Census, 2011). Social Science has the highest Enrolment of students hovering around 20 per cent, while most number of PhD enrolment goes to Engineering and Technology (AISHE, 2014-15). A constant growing number of students added to the sector each year, provides an



opportunity for private entrepreneurs to invest in this sector. There are 43 central universities, 312 state universities, 183 private universities and 115 deemed universities in India as listed by the University Grants Commission (UGC), the apex regulatory body for higher education.

India's demographic advantage of having a large number of youth populations between the ages of 18 - 23 is not effectively used as the Gross Enrolment Ratio for Higher Education, stands as low as 18.8 per cent (Government of India, 2015). When compared with China (26 per cent) and Brazil (36 per cent); India has a lot of unmet demand for Higher Education (British Council India, 2014). For achieving growth in the education sector, availability of funds is an important factor. Additionally, growth in educational technology and appropriate human resources are also significant drivers of growth of the education sector in India.



Graph 1: Enrollment with reference to number of institutions

Source: EY, 2011

With 546 million people under 25 years of age, there is potential for India in the education sector that needs to be tapped. By 2020, to increase the per centage of students going for higher education from the present 12.4 per cent to 30 per cent in the country, India will need 800 more universities and another 35,000 colleges, according to the ministry. MHRD also estimates, India's education sector needs investment worth USD 150 billion in the next 10 years.

In order to meet this existing and emergent demand, there is huge need of investments in the Indian education sector posing a high potential for private players to explore the untapped market. The higher education sector in India is expected to witness a growth of 18 per cent per annum until 2020 (Ravi Mahajan, 2016). The private education sector is estimated at USD 115 billion. Foreign Direct Investment (FDI) in the sector was increased from USD 0.04 billion to USD 0.26 billion in FY14 (MHRD, 2015). The number of privately funded institutions for higher education increased from approximately 43 per cent in 2000-01 to approximately 64 per cent in 2005- 06. Gross enrolment in these institutions increased during the same period from approximately 33 per cent to 52 per cent during the same period (Prakash, 2009).

There are, however, pertinent issues affecting private investment in the sector. Majority of the



states have been dealing with aided colleges where the fund flows through the government for salary and related expenses with autonomy over fees and other entitlements. The pattern of Private Universities is yet to pick up given the regulatory environment existing at the state level. Only few states have enacted legislations allowing private universities in India. 21 of such private universities existing in Uttar Pradesh have politicians on the board (CPPR, 2015) and each is registered under separate Acts. The Government of Rajasthan had come out with a "Guidelines for the Establishment of Private Universities by Separate Act replacing the Rajasthan Private Universities Act, 2005" for providing uniformity. However, lack of uniformity has affected investments and existence of various educational institutions.

Further, although private participation (including 100 per cent FDI in Higher Education) is allowed in the education sector at all levels, these institutions have to function on a not-for-profit basis. These disincentive private players from investing in the sector. As a result, in spite of high potential, there is low investment and lower potential for growth prevailing in this sector.

In light of this, CPPR has taken up any analysis of the Education scenario in India focussing on three states of Kerala, Karnataka and Tamil Nadu. Each state represents diversity of institutional mechanisms in regulations, monitoring and running of educational institutions. This White Paper focuses to explore the policy paradigm of the three states and suggest the way forward.

2.3 Structure of education sector in India

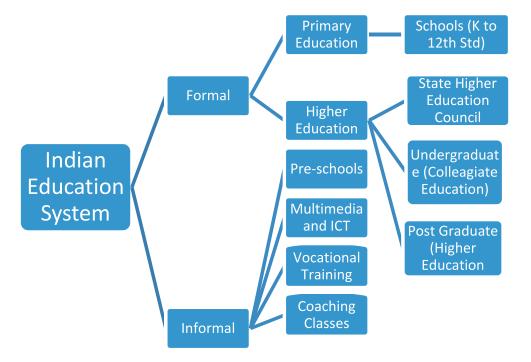


Figure 1: Structure of Indian Education system



Table 1: Type and number of Educational Institutions in India

Type of Educational Institution	Number
University level institutions	544
State Universities	261
State Private Universities	73
Central Universities	42
Deemed Universities	130
Institutions of national importance	33
Institutions established under	5

Source: MHRD Annual Report 2014-15

2.3.1 Regulatory Framework

India's regulatory structure of educationhas various levers at the state level. Being in the "Concurrent list", education is being governed by both Central and State government with huge variations amongst the different state regulations. Government regulations on educational institutions emanate from the 'public good' argument. There are many in each subdivision of the education sector.

Higher education institutions have to be set up as a Trust or Society, on a non-profit basis, with returns ploughed back into the institution. Trusts are required to spend 85 per cent of income streams from endowments in the same financial year.

The University Grants Commission (UGC) and the All India Council of Technical Education (AICTE) have wide powers to regulate the sector: the UGC for universities and colleges teaching general subjects, and the AICTE for technical education. Beside the AICTE, there are 14 other statutory professional councils that regulate courses related to areas in medicine, law and nursing.

The NAAC and the National Board of Accreditation (NBA) are autonomous bodies set up by UGC and AICTE, respectively that accredit institutions.



Presently, foreign institutions are allowed to operate in India through various modes, and Indian universities can grant degrees and diplomas in collaboration with foreign universities.

According to the UGC Rules, foreign universities can set up campus in India and issue foreign degrees. Under the proposed Rules, Foreign Educational Institutions (FEIs) can set up campuses in India once the FEIs have been declared as Foreign Education Providers (FEPs) by the UGC. The degrees awarded by these universities will be treated as foreign degrees.

As can be seen from Figure 1; the Department of Primary Education regulates schools, government and aided. Private schools need to get NOC's from the Department to operate as per the relevant rules. For eg: Kerala Education Rules (KER, 1959); The Tamil Nadu Education Rules (1892) and Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 for private schools; the Karnataka Education Act (KEA, 1983).

The Department of Collegiate Education and the Department of Higher Education regulates the Higher Education sectors in the states. The approval of colleges is done through the Collegiate Education which is processed and forwarded to the Higher Education Department who will be provide the final order and notification allowing or disallowing the setting up of educational institution in the state. In addition to this; at the state level; Higher Education Councils are floated to advise the state government on matters related to Higher Education and liasing with Central government and its institutions. The state of Tamil Nadu has setup the Tamil Nadu State Council for Higher Education (TANSCHE) in 1992, Karnataka has Karnataka State Higher Education Council (KSHEC, 2010) and Kerala State Higher Education Council (KSHEC, 2007).

Apart from the clearances from these institutions; the 'edu-preneur'/entity need to get multiple licenses for utilities, land, taxes etc. The District Educational Officer has major powers to sanction setting up of schools in the states. The report furbished by the DEO after inspection will be sent to the state department for final approval. Private schools need to get sanctions from the Central Board of Secondary Education (CBSE) and Indian Certificate of Secondary Education (ICSE) & Indian School Certificate (ISC) for following the curriculum framework.

Colleges need to get affiliations from the state universities and need to follow the process set as per the State Universities Act for the same. Private Universities are allowed to operate in the states of Karnataka (6) and Tamil Nadu (37) except Kerala (0) where discussions have been mooted by the Kerala Higher Education Council (KSHEC, 2015) to allow private universities. Kerala has recently setup Kerala Technical University (KTU) to regulate and provide uniformity for Engineering Colleges in the state.

2.4 Key Policy Initiatives

Government has been running different programmes for enabling education from primary to



higher and technical education. The Constitutional right for free and basic education led to the enactment of Right to Education Act (RTE, 2009) has paved way for changes in the structure of primary schooling in the country. The state has been thereby providing financial support for institutions to run in the country. Meanwhile, private entities could run and operate educational institutions on a 'non-profit basis' in the lines of various judgments of the Supreme Court (*T.M.A Pai v. State of Karnataka*, 2002, *J P Unnikrishnan vs. State of Andhra Pradesh*, 1993 etc). The government has allowed 100 per cent FDI in the higher education sector. However, various challenges at the operational and regulatory front have affected the flow of investments into the sector despite of the huge market in India.

Key policy initiatives in the education sector in the recent times include the bills that are either tabled or suggested;

Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010; the Bill sought to regulate the entry and operation of foreign educational institutions seeking to impart higher education.

- Every foreign educational institution intending to operate in India has to be notified as a foreign educational provider by the central government on the recommendation of the Registrar (Secretary of the University Grants Commission).
- Foreign educational providers have to maintain a corpus fund of a minimum of Rs 50 crore.
 Upto 75 per cent of any income generated from the corpus fund shall be utilized for developing its institution in India and rest should be put back in the fund.
- The central government may exempt any institution, on the advice of the Advisory Board, from conforming to the requirements of the Bill except the penalty provision and the ban on revenue repatriation.

The Bills largely focus on accountability through traditional regulatory approaches, by establishing new regulatory bodies, mandatory accreditation, dispute resolution, and penalising unfair practices including capitation fees.

- The National Commission for Human Resources for Health (NCHRH) Bill, 2011; the Bill sought to establish a mechanism to determine and regulate the standard of health education in the country. The Parliamentary Committee rejected this National Commission for Human Resources in Health Bill.
- The National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010; this Bill sought to make it mandatory for every higher educational institution (other than institutions engaged in agricultural education) to be accredited by an independent accreditation agency. The current Ministry is trying to revive the discussion on this bill which

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- an uniform process in the country. Currently, the Universities are relying on third party agencies and foreign entities for accreditation and benchmarking quality standards.
- o The Educational Tribunals Bill, 2010; was aimed to establish Educational Tribunals at the national and state levels to expedite adjudication of disputes in the education sector. These included disputes involving teachers and other employees of higher education and other stakeholders such as students, universities (including foreign education providers) and statutory regulatory authorities. However, the Bill got Lapsed and the disputes (especially on service matters) end up piling in courts.
- The Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010; , this Bill sought to check malpractices in technical and medical educational institutions. It specified guidelines under which these unfair practices such as charging capitation fees, demanding donations, questionable admission processes etc could be treated as civil or criminal offences. This Bill also got Lapsed and has not been revived.
- o Universities for Research and Innovation Bill, 2012; the Bill which sought to allow the central government to set up Universities for Research and Innovation got lapsed. Theuniversities were deemed to be institutions of national importance. As per the Bill 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.
- National Academic Depository Bill, 2011; the Bill sought to establish a national database of academic awards in electronic format, which could be verified and authenticated. The Bill makes it mandatory for every academic institution (college, university, and boards that award Class X and XII certificates) to lodge every academic award with the depository which will develop as a database. Efforts have been underway to revive the Bill and discussions are initiated at the Ministry level.

SECTION 3 - WAY FORWARD

This section discusses the various issues that exist in the education sector in India. Right from the issues in entry to the issues in the exit process, there are several barriers that concern this sector. It is necessary to understand what other factors influence the education sector in India and how they can be overcome.

	ISSUES	SUGGESTED REFORMS
ISSUE OF ENTRY FOR PRIVATE UNIVERSITIES	Setting up of an education institution is a complex process. In case of setting up a university, it needs to be legislated into existence, by Parliament or state legislature. Since Parliament does not have an enabling legislation, no private university has been established at the central level. At the state level, all states do not have their respective enabling legislation for setting a private university.	
ISSUE OF ENTRY FOR PRIVATE COLLEGES	In case of setting up a college, it needs to be affiliated to an existing state University. Entry barriers to setting up new colleges have resulted in	Private colleges should be allowed to affiliate not only with public universities but also with private universities. This relaxes the rules of the state and the college should adhere to the rules of individual private universities.



a complex affiliated college system within universities, where colleges are affiliated existing public universities. In order to establish a College, there must be adequate land on which the campus may be made and necessary infrastructural facilities provided. No college/ university can come into existence without a proper campus.

This also helps in speeding up the process of approval as not all colleges will have to wait for a public university affiliation.

ISSUES IN BUILDING STABILITY APPROVAL CERTIFICATE

Building stability approvals are demanded for all the buildings alike new or old. However, these approvals cannot be obtained for buildings over 20 years old.

This certificate can be demanded only for newly constructed buildings as they are not priorly approved. Municipal Building Rules shall be amended at all states to facilitate this.

Old buildings are already approved at the time of construction and do not require a stability approval certificate at for a stipulated longer period. This could avoid annual inspections and harassment. When the certificate is issued, it shall have validity of at least 5 years.

ISSUES IN MULTIPLE REGULATORY BODIES

There are multiple regulatory bodies overlooking different divisions of higher education both at the state and central level.

Multiple bodies have different set of rules and regulations which often overlap or contradict each other.

A uniform body can be brought into place overlooking the entire education sector.

A single sector regulator at the central level can be brought into place to assess the quality, ranking and grading of all the new institutions.

Institutions can also be rated based on their performance on an annual basis. This would help in maintain the quality of institutions that are being brought into existence. Institutions like UGC, AICTE etc shall be restructured and integrated to the single regulator

ISSUES IN LAND AVAILABLITY AND REQUIREMNETS

Land requirements for setting up an educational institution varies from 3 - 5 acres based on rural and urban land. Such a large spread of land is difficult to obtain as it is not available.

Lease of Rent is not allowed or limited by law at the states

There are some land areas, which are dry and not fit for agriculture. The govt. shall assist the eduprenuer/entity to convert these to commercial land instead of having them go through the process of getting the land conversion, which is a tedious process.

		Land area requirement, especially in urban areas should be reduced, as this would encourage more players to set up institutions. Flexibility in land ownership will also be an effective reform to bring about Schools/ colleges that can be set up on rental land.
ISSUES OF MULTIPLE LICENSES	Over 30 set of licenses and NOCs are required. The whole process taken around a year to complete. They are to be separately obtained from multiple departments in order to apply to set up a new institution. Documentation is one of the crucial tasks when you are opening an institution.	Single window system needs to be in place which integrates all the required government services to set up an institution. High investments can be routed through the Investment bodies and the single window process in place already. For eg: KSIDC in Kerala; KSIIDC in Karnataka and Tamil Nadu Export Promotion and Industrial Guidance Bureau
AUTONOMY	Even though the autonomy is discussed and granted to many institutions (especially in the case of Aided and unaided institutions), it continues to be a grey area in terms of the autonomy enjoyed in different areas of	Autonomy and independence shall be provided in letter and spirit. This should include autonomy in financial management, curriculum management and exam management. States like Kerala where Autonomy

	functionalities	has been discussed; need to
		open up to providing autonomy status which will enable colleges to innovate and raise the standards.
LARGE ENDOWNMENT FUND REQUIREMENT AND NOT FOR PROFIT MOTIVE	Colleges are required to deposit a large fund with the state govt. in the future event of dissolution. High upfront cost in the initial years. High capital requirement to meet land norms, endowment fund and other such requirements. This is further aggravated by restrictions on the source of funding - only a Society or Trust or Section 25 company can be a sponsoring body, i.e., for-profit organisations cannot finance such ventures. In the not for profit structure, 85 per cent of the revenue needs to be reinvested in the sector. This removes the incentive to set up in this sector.	costs etc. rise the overall
ISSUES IN EXIT PROCESS	The sponsoring body gives notice to the state	An exit policy should be in placeat the central level.



government least months to a year in advance and is required to operate until the last batch students have completed their courses.

Comprehensive checklists are to the provided by the government for the all

Each entrepreneur should be

the

process.

of

required documents.

aware

Upon dissolution, the assets and liabilities rest with the sponsoring body.

States such as Tamil Nadu and Andhra Pradesh do not have the necessary legislation or

an exit policy in place.

SECTION 4- CONCLUSION

Education sector is one of the most prolific sectors which investments and competition will help in improving the quality and quantity of the student clientele. Doing Business in this sector is currently considered as a taboo given the approach towards education as a non-profit entity. While repeatedly the courts and other experts have affirmed that education is not a business activity; this shall not limit or not allow private players to manage and provide good quality services. Extensive controls in this arena have not benefited the student's community as their choices are curtailed and access to education limited. It is high time that the government seeks to open up the sector for competent private players through a competitive market.

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The Report on "Breaking Business Barriers (BBB)" has been the culmination of the research conducted by Centre for Public Policy Research on theme of 'Ease of Doing Business' in three southern India states namely; Kerala, Karnataka and Tamil Nadu. The project was executed for a year starting from May, 2015.



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