THE NATIONAL UNIVERSITY OF ADVANCED LEGAL STUDIES, Kalamassery, Kochi – 683 503, Kerala, India

DISSERTATION SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENT FOR THE AWARD OF THE DEGREE OF MASTER OF LAWS (LL.M.) IN INTERNATIONAL TRADE LAW (2024-2025)

ON THE TOPIC

INDIAN HIGHER EDUCATION AND GATS: AN ANALYSIS OF REGULATORY FRAMEWORKS FOR INTERNATIONAL BRANCH CAMPUSES

Under the Guidance and Supervision of

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CERTIFICATE

This is to certify that **Ms. MENMA MERLIN ALEXANDER** (Reg. No. **LM0224014**) has prepared and submitted the dissertation titled "***Indian Higher Education and GATS: An Analysis Of Regulatory Frameworks for International Branch Campus***" in partial fulfilment of the requirement for the award of the Degree of Master of Laws in International Trade Law, to the National University of Advanced Legal Studies, Kochi, under my guidance and supervision. It is also affirmed that the dissertation she submitted is original, bona fide, and genuine.

Date: 28 May, 2025

Place: Ernakulam

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DECLARATION

I, **Menma Merlin Alexander (LM0224014)**, pursuing Masters in International Trade Law, do hereby declare that the Dissertation titled 'Indian Higher Education and GATS: An Analysis Of Regulatory Frameworks For International Branch Campus', submitted for the award of L.L.M Degree in the National University of Advanced Legal Studies, Kochi, during the academic year 2024-2025, is my original, bonafide and legitimate research work, carried out under the guidance and supervision of **Mr. RAVEENDRAKUMAR D.**, Assistant Professor, The National University Of Advanced Legal Studies and **Dr. SANDEEP M.N.** Assistant Professor, The National University Of Advanced Legal Studies. This work has not formed the basis for the award of any degree, diploma, or fellowship either in this university or other similar institutions of higher learning.

Date: 28.05.2025

Place: Ernakulam

Menma Merlin Alexander

Register No. LM0224014

LL.M. (ITL)

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PREFACE

The idea of foreign universities setting up campuses in India has always fascinated me. As a student of law with a keen interest in international trade and education policy, I have often wondered how global rules like GATS can affect something as important and sensitive as a country's education system. My interest in this topic grew stronger when I realized that India is at a turning point—on one hand, there is a clear push toward internationalization of higher education, and on the other, there is a need to protect the quality, equity, and values that form the backbone of our national education system.

I chose this research topic, "Indian Higher Education and GATS: An Analysis of Regulatory Frameworks for International Branch Campuses in India," because I wanted to understand the legal and policy challenges involved in welcoming foreign institutions into India. With the National Education Policy (NEP) 2020 opening new doors for foreign universities, I felt it was the right time to explore whether our current laws and regulatory structures are strong enough to support this move without compromising national interests.

What makes this research meaningful to me is the fact that education is not just another economic service. It plays a vital role in shaping individuals, society, and the future of a nation. That's why I believe any step toward liberalizing this sector must be carefully examined. I wanted to study how GATS Mode 3—commercial presence of foreign service providers—applies to the Indian context, and whether it aligns with our India's vision of education as a public good.

I am also interested in how other countries have approached this issue. Countries like the UAE, Malaysia, and China have allowed international branch campuses with various models of regulation. Comparing India's emerging framework with theirs can help identify strengths and gaps in our approach. I see this study not just as an academic exercise but as a step toward contributing to better policymaking in this field.

Personally, this topic has helped me connect my passion for international law, education, and public policy. It has allowed me to think critically about how global agreements affect domestic priorities, especially in a country like India that is both a growing economy and a diverse democracy. I hope that through this dissertation, I can

offer some insights that are useful not just for students and academics, but also for policymakers who are shaping the future of Indian higher education.

ABBREVIATIONS

1. GATS – General Agreement On Trade in Services
2. WTO- World Trade Orangisation
3. UNESCO- United Nations Educational, Scientific and Cultural Oranganization
4. OECD- Organisation for Economic Co- operation and Development
5. MFN- Most Favoured Nation
6. IBC- International Branch Campus
7. SWAYAM- Study Webs of Active Learning for Young Aspiring Minds
8. NPTEL- National Programme on Technology Enhanced Learning
9. MOOCS- Massive Open Online Courses
10. IGNOU- Indira Gandhi National Open University
11. AISHE- All India Survey on Higher Education
12. SII- Study In India Programme
13. UGC – University Grants Commission
14. IFSCA- International Financial Service Centres
15. HEIs- Higher Education Institutions
16. GIAN- Global Initiative for Academic Networks
17. SPARC- Scheme for Promotion of Academic and Research Collaboration
18. IIT- Indian Institute of Technology
19. NUEPA- National University for Educational Planning and Administration
20. NAAC- National Assessment and Accreditation Council
21. CABE- Central Advisory Board of Education
22. NKC- National Knowledge Commission
23. FICCI- Federation of Indian Chambers of Commerce
24. STEM- Science, Technology, Engineering and Mathematics
25. NITI Aayog- National Institution for Transforming India Aayog
26. FCRA- Foreign Contribution (Regulation) Act
27. NEP- National Education Policy
28. U.A.E- United Arab Emirates
29. INQAAHE- The International Network for Quality Assurance Agencies in Higher Education
30. APQN- Asia- Pacific Quality Network

31. ENQA- European Assosciation for Quality Assurance in Higher Education
32. QAA- Quality Assurance Agency for Higher Education
33. HECI- Higher Education Commission of India
34. AIU- Assosciation of Indian Universities
35. ABC- Academic Bank Of Credit Recognition
36. TEQSA- Tertiary Education Quality and Standards Agency
37. CBHE- Cross Border Higher Education
38. QS- Quacquarelli Symonds
39. PHEIs- Private Higher Education Institutions
40. MQA- Malaysian Qualifications Agency
41. CAA- Commission for Academic Accreditation
42. KHDA- Knowledge and Human Development Authority
43. UQAIB- Unique Quality Assurance International Board
44. CFCRS- Chinese- Foreign Cooperation in Running Schools
45. TNHE- Transnational Higher Education
46. CDGDC- Chinese Academic Degrees and Graduate Education Development
47. CEAIE- China Education Assosciation for International Exchange
48. CBQAN- Cross- Border Quality Assurance Network

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Adarsh Shiksha Mahavidyalaya & Ors vs Subhash Rahangdale & Ors	2012
Unnikrishnan CV & Ors vs Union Of India	2023
Gurunanak Dev University vs Sanjay Kumar Katwal & Anr	2009
State of Rajasthan vs Lata Arun	2002
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CHAPTER 1- INTRODUCTION

INTRODUCTION

Hindu mythology demonstrates how education was viewed as a public service in ancient India. In gurukuls, students resided and received instruction from their guru. They gave gurudakshina as a thank you after finishing their studies. Large concrete buildings known as universities have taken the place of these gurukuls in modern times. Large tuition fees have taken the place of gurudakshina, and the traditional guru-shishya parampara has diminished. Additionally, migration laws and other obstacles like qualification recognition have limited the previously unrestricted mobility of students. Education is no longer viewed as a service but rather as a business. To gain admission to prestigious universities, students compete aggressively. However, this zeal is frequently motivated by a sense of prestige rather than a sincere desire to learn. Many universities have started to profit from this psychological trend after realizing it.

The General Agreement on Trade in Services (GATS), which was created in 1995, included education as a marketable service in the face of these changing difficulties. Significant worries over the monetization of the education sector were brought up by this inclusion. Under GATS, education encompasses more than only student mobility; it also includes other types of educational trade that could reduce the appeal or satisfaction of cross-border student mobility.

GATS describes various ways to provide educational services. The creation of International Branch Campuses (IBCs), which entails the cross-border migration of institutions, is one such mechanism. Nonetheless, there has long been a link between India and international education. Even Indian institutions are frequently criticized for being more in line with Western models than Indian customs. For example, students' uniforms are often inappropriate for the temperature or culture of India. India continues to have a significant preference for Western educational systems even after decades of independence.

The National Education Policy (NEP) 2020 suggested globalization of education as a major reform in the higher education sector. It is recommended that top-performing Indian institutions open campuses outside. Similarly, international colleges that are included in the top 100 worldwide will have easier access to India. Deakin University

of Australia opened its first international branch campus in India as a consequence of NEP 2020.

Currently, two major regulations govern the establishment and operation of International Branch Campuses (IBCs) in India:

1. University Grants Commission (Setting up and Operation of Campuses of Foreign Higher Educational Institutions in India) Regulations, 2023 – Applicable to institutions established outside Free Economic Zones. Notified on 2nd November 2023.
2. IFSCA (Setting up and Operation of International Branch Campuses and Offshore Education Centres) Regulations, 2022 – Applicable to institutions operating within GIFT City (India's Free Economic Zone). Notified on 12th October 2022.

RESEARCH QUESTIONS

1. How far the General Agreement on Trade in Services (GATS) is influencing cross-border education? 2. Are there any potential gaps in current regulations that may impact the successful integration of foreign education institutions into India's higher education system?

3. How effective does India take the Quality Assurance measures in the case of the international Branch Campus compared to the UNESCO guidelines of Quality assurance for cross-border education?

4. How different are the regulatory frameworks for international Branch Campuses in India compared to other GATS member countries, such as the U.A.E, Malaysia, and China?

SIGNIFICANCE OF THE STUDY

The study looks at regulatory limitations in India that prevent international universities from integrating under NEP 2020. It seeks to increase India's competitiveness as a global hub for education by tackling problems with recognition of qualifications and the absence of clear and open quality assurance procedures.

SCOPE AND DELIMITATION

There are four educational modes as specified by GATS, with the third mode emphasizing commercial presence. Although twinning agreements and offshore programs are examples of other educational models, this study will only look at overseas Branch Campuses. Importantly, Indian universities or branch campuses located overseas are not included in the term "international branch campuses," which refers to foreign institutions founded in India. The three main areas of regulatory frameworks that the researcher focuses on are quality assurance, accreditation, and

certification recognition. Instead of examining these ideas in-depth, the researcher is doing a broad analysis.

LITERATURE REVIEW

"Challenges and Concerns: Regulatory Reforms and opening of Foreign Higher Educational Institutions in India" (2024) by Sweety Supriya - This study looks at how regulatory changes and globalization are affecting higher education in India, especially in light of the arrival of foreign higher education institutions (FHEIs). Although globalization might promote growth, other scholars contend that it can also result in more inequality and commercialization. Critics caution that FHEIs frequently put profit ahead of the general welfare, which could jeopardize equity and access. Economic theories stress that in order to avoid market failures, higher education, as a public good, needs to be well regulated. Data also shows that access to higher education is highly impacted by social and economic inequities. Furthermore, prestigious international universities hardly ever open full-fledged campuses overseas, which begs the question of how successful and long-lasting such changes will be in India.

"Foreign Universities in India: An Analysis on Criticisms" 2023 by Rohith Krishna- The main issues with foreign higher education institutions' (FHEIs') admission to India under the 2023 UGC draft regulations are examined in this study. Opponents like Pratap Bhanu Mehta and Kapil Sibal contend that the approach largely serves the interests of the wealthy, may not be able to draw in prestigious international universities, may jeopardize national educational objectives, and may exacerbate already-existing disparities. The impact of Western ideals and the differences in institutional autonomy between Indian and foreign institutions are further issues. The author, Rohith Krishna, responds to these objections, arguing that a lot of them stem from irrational assumptions or ideological prejudices. He challenges the pessimistic view by pointing out that universities like Deakin University, which is highly regarded internationally, have already committed to opening campuses in India. The study makes the case that international colleges may improve academic standards, foster healthy competition, and give Indian students access to a global education without requiring them to travel overseas. It also highlights how crucial international involvement is to India's efforts to improve its own educational system. The entrance of FHEIs can be in line with national interests if the right regulatory frameworks are in place. Overall, the study comes to the conclusion that although the complaints are important, they are insufficient justifications for rejecting the program. FHEIs have the ability to favorably

impact the growth of India's higher education industry if they are implemented with consideration and strategy.

"GATS and Higher Education: the need for regulatory policies" (2007) by N.V. Varghese- This booklet, which was published years before overseas branch campuses were established, emphasizes the emerging trend of considering higher education as a service that can be traded under the GATS framework. Academics highlight the transition from state-funded to market-driven models, which are distinguished by cross-border education, student-based finance, and greater privatization. Case studies show how developing nations are increasingly accepting international cooperation and foreign investment in the education sector, especially from Vietnam. However, in order to protect national interests, guarantee quality, and avoid injustices, experts like Varghese and Knight emphasize the significance of strong regulatory frameworks. Although the education trade offers many benefits, it also entails the risk of commercialization and, if improperly regulated, has the potential to increase access disparities.

RESEARCH OBJECTIVES

1. To analyze the influence of GATS in cross- border education in India
2. To critically examine the regulatory frameworks governing the establishment and operation of International Branch Campus (IBCs) in India
3. To evaluate the effectiveness of Quality Assurance measures taken by India in case of International Branch Campus
4. To examine the differences in the set up and operation of International Branch Campuses (IBCs) in India compared to those in other GATS member countries such as the U.A.E., Malaysia, and China.

HYPOTHESIS

The current regulatory frameworks for IBCs in India negatively impact the quality of IBCs in India.

RESEARCH METHODOLOGY

This study analyzes the legal framework governing international branch campuses (IBCs) in India using a doctrinal methodology. The IFSC and UGC Regulations, relevant case laws, case studies, and secondary sources including academic literature, reports, news reports, and journals are among its primary sources. The legislative frameworks of nations like China (The Chinese-Foreign Cooperation in Running Schools Regulations, 2005), Malaysia (Private Higher Education Act), and the United

Arab Emirates (CAA Regulations) will be compared. To obtain a thorough grasp of their different methods, secondary materials pertaining to IBCs in these nations will also be used.

CHAPTERISATION

Chapter 1- Introduction

Chapter 2- GATS, India and Cross border education

Chapter 3- History of the arrival of foreign universities in India

Chapter 4- Analysis of International and National Quality Frameworks

Chapter 5- Comparative Analysis- U.A.E, Malaysia and China

Chapter 6- Conclusion and Recommendations

LIMITATIONS OF THE STUDY

One of the study's limitations is that, although the original regulations governing international branch campuses (IBCs) in nations like the United Arab Emirates, Malaysia, and China are available, the researcher also has to rely on a number of manuals, guidelines, and documents published by the relevant regulatory bodies concerning IBC quality assurance, procedures, and standards. Because there is a limited number of data for a comparative analysis of IBCs in these nations, the study also uses secondary sources to give a more thorough analysis.

CHAPTER 2

GATS, INDIA AND CROSS BORDER HIGHER EDUCATION

"I have never let my schooling interfere with my education"

~ Mark Twain

GATS plays an important and interesting role within the higher education sector. However, it is crucial to gain an understanding on GATS in detail prior to understanding the role it plays within the higher education sector. Hence, this chapter aims to provide a basic understanding of GATS, the major principles behind the same, and the modes of supply of the same (i.e. connecting GATS with International Branch Campuses), the various initatives undertaken by India concerning trade liberalization under the GATS regime, and the interrelation between concepts such as brain gain and brain drain with GATS.

An Overview on GATS.

The General Agreement on Trade in Services (GATS) is the first international tarde agreement made exclusively for the Trade of Services. This is unlike other agreements such as the GATT, which focuses on goods. It operates under the World Trade Organization's (WTO) framework[1].

GATS was negotiated during the Uruguay Round and came into force in 1995. Although initial efforts to liberalize service sectors progressed more slowly than expected, negotiations remain ongoing. The agreement is legally binding, having been ratified by the legislatures of all 149 WTO member countries as of 30 August, 2024[2].

The GATS had a primary objective of gradual reduction of barriers to service trade, increase transparency, and provide better clarity on trade regulations. The GATS is further structured into 3 main components – the framework, the national schedules, and the annexes:

i. The framework establishes general principles and rules, including the obligations of National Treatment (NT) and Most Favoured Nation (MFN).

[1] Jane Knight, Higher Education Crossing Borders: A Guide to the Implications of the General Agreement on Trade in Services (GATS) for Cross-Border Education, Commonwealth of Learning & UNESCO (2006), https://unesdoc.unesco.org/ark:/48223/pf0000147363

[2] World Trade Organization, Understanding the WTO: The Secretariat, WTO, https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm

ii. The National Schedule details the specific market access commitments made by each country, thereby providing an outline on the extent to which foreign service providers can operate.

iii. The Annexes include sector-specific conditions or limitaions applicable to such trade of services, and these are attached to each country's schedule of commitments.[3]

The Preamble of GATS.

The primary aim of the GATS was to promote multilateral trade in services, and the fundamental objectives of the same were reflected in the Preamble of the agreement, and an excerpt of the same has been provided below-

"Recognizing the growing importance of trade in services for the growth and development of the world economy;

Wishing to establish a multilateral framework of principles and rules for trade in services with a view to the expansion of such trade under conditions of transparency and progressive liberalization and as a means of promoting the economic growth of all trading partners and the development of developing countries;

Desiring the early achievement of progressively higher levels of liberalization of trade in services through successive rounds of multilateral negotiations aimed at promoting the interests of all participants on a mutually advantageous basis and at securing an overall balance of rights and obligations, while giving due respect to national policy objectives;

Recognizing the right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives and, given asymmetries existing with respect to the degree of development of services regulations in different countries, the particular need of developing countries to exercise their right;

Desiring to facilitate the increasing participation of developing countries in trade in services and the expansion of their services exports including, inter alia, through the strengthening of their domestic services capacity and its efficiency and competitiveness;

[3] Supra 1

Taking particular account of the serious difficulty of the least-developed countries in view of their Special economic situation and their development, trade and financial needs."[4]

OBJECTIVES OF GATS

In addition to the Preamble, the following objectives have been mentioned at various parts of the GATS Agreement –

- Progressive Liberalization

Progressive Liberalization has also been mentioned in Part IV of the GATS provisions. The provision states as such :

1.In pursuance of the objectives of this Agreement, Members shall enter into successive rounds of negotiations, beginning not later than five years from the date of entry into force of the WTO Agreement and periodically thereafter, with a view to achieving a progressively higher level of liberalization. Such negotiations shall be directed to the reduction or elimination of the adverse effects on trade in services of measures as a means of providing effective market access. This process shall take place with a view to promoting the interests of all participants on a mutually advantageous basis and to securing an overall balance of rights and obligations.
2. The process of liberalization shall take place with due respect for national policy objectives and the level of development of individual Members, both overall and in individual sectors. There shall be appropriate flexibility for individual developing country Members for opening fewer sectors, liberalizing fewer types of transactions, progressively extending market access in line with their development situation and, when making access to their markets available to foreign service suppliers, attaching to such access conditions aimed at achieving the objectives referred to in Article IV.
3. For each round, negotiating guidelines and procedures shall be established. For the purposes of establishing such guidelines, the Council for Trade in Services shall carry out an assessment of trade in services in overall terms and on a sectoral basis with

[4] General Agreement on Trade in Services pmbl., WTO, https://www.wto.org/english/res_e/publications_e/ai17_e/gats_preamble_jur.pdf (last visited Mar. 27, 2025)

reference to the objectives of this Agreement, including those set out in paragraph 1 of Article IV. Negotiating guidelines shall establish modalities for the treatment of liberalization undertaken autonomously by Members since previous negotiations, as well as for the special treatment for least-developed country Members under the provisions of paragraph 3 of Article IV.

4. The process of progressive liberalization shall be advanced in each such round through bilateral, plurilateral or multilateral negotiations directed towards increasing the general level of specific commitments undertaken by Members under this Agreement.[5]

- Transparency

Transparency has been mentioned in Part III of the GATS provisions. The provision states as such :

1.Each Member shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Agreement. International agreements pertaining to or affecting trade in services to which a Member is a signatory shall also be published.

2. Where publication as referred to in paragraph 1 is not practicable, such information shall be made otherwise publicly available.

3. Each Member shall promptly and at least annually inform the Council for Trade in Services of the introduction of any new, or any changes to existing, laws, regulations or administrative guidelines which significantly affect trade in services covered by its specific commitments under this Agreement.

4. Each Member shall respond promptly to all requests by any other Member for specific information on any of its measures of general application or international agreements within the meaning of paragraph 1.Each Member shall also establish one or more enquiry points to provide specific information to other Members, upon request,

[5] General Agreement on Trade in Services, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1B, 1869 U.N.T.S. 183, https://www.wto.org/english/docs_e/legal_e/26-gats.doc

on all such matters as well as those subject to the notification requirement in paragraph 3. Such enquiry points shall be established within two years from the date of entry into force of the Agreement Establishing the WTO (referred to in this Agreement as the "WTO Agreement"). Appropriate flexibility with respect to the time-limit within which such enquiry points are to be established may be agreed upon for individual developing country Members. Enquiry points need not be depositories of laws and regulations.

5. Any Member may notify to the Council for Trade in Services any measure, taken by any other Member, which it considers affects the operation of this Agreement.[6]

Article III of the GATS provides for the transparency of all policies and their terms and conditions, including limitations and restrictions. Transparency obliges members to notify and publish all rules and regulations affecting trade in services. Such transparency would ensure that service suppliers are able to access information on laws, regulations, and rules pertaining to trade in services. Under the GATS rules, the government must establish and maintain a system for publishing all relevant laws and regulations, along with inquiry points within the respective government agencies. These inquiry points then facilitate foreign companies and governments to inquire about regulations affecting a service sector. Governments must communicate with the WTO about the regulatory changes, and any such change can be challenged, mostly when it is seen as contrary to progressive liberalization.

The Principles Of GATS

Key Principles of the General Agreement on Trade in Services (GATS) include the principles of Most Favored Nation, Transparency, International Payments and Transfers, Market Access, and National Treatment. They have been explained below as follows –

1. Most Favored Nation (MFN): Services and suppliers of the same are to be guaranteed favourable treatment comparable to domestic service suppliers and

[6] Ibid

service suppliers from any other country by member countries, immediately and on an unconditional basis[7].

2. Transparency : All relevant laws and regulations must be published by governments and inquiry points established in their administrative systems for any regulatory changes in areas of service covered by specific commitments to be notified to WTO members.
3. International Payments and Transfers: Once a commitment is made, there should not be any government restraints on payment transfers for services rendered in that sector, thereby providing for the unimpeded outflow of funds out of the country.
4. Market Access: The principle is based on negotiated commitments. It allows such service providers to carry out their foreign services in the domestic market on conditions specified in the schedule of the country. However, some restrictions can apply, such as restriction on the number of service providers allowed to operate, extent of service operations, staff or employees, use of foreign capital, or even value of the transactions.
5. National Treatment : This principle states that member countries should adopt non-discriminatory practice in favor of domestic: services or service providers with respect to foreign similar. The treatment provided to foreign services shall be equivalent to that provided to domestic services. [8]

TYPES OF OBLIGATIONS UNDER GATS

Two types of obligations have been provided in the GATS. They are as follows-

1. General or Unconditional Obligations under the GATS: These automatically apply to all WTO member countries. They include principles such as the most-favoured-nation (MFN) treatment and transparency requirements. These two fundamental provisions are non-negotiable and collectively referred to as the

[7] Medha J. Gupte, Indian Higher Education under GATS and Globalisation, 1 Manthan: J. Com. & Mgmt. 2 (Vol. 1, Issue 2), https://www.academia.edu/81363477/Indian_Higher_Education_under_GATS_and_Globalisation.
[8] Ibid

"top-down approach", and they are universally applicable to all 12 categories of services, irrespective of the specific commitments applicable to a country. [9]

2. Conditional Obligations: These refer to the specific commitments made by each country regarding various sectors, subsectors and modes of supply where they agree to provide market access, which are often subject to specific limitations and exceptions. These obligations are legally binding and they require countries to facilitiate market access by removing trade and other barriers to market. [10]

MODES OF SUPPLY UNDER GATS

Services may be provided via 4 distinct modes as outlined in Part I of Article 1 of the GATS Agreement. They are as follows:

1. Cross-Border Supply – In this mode, Services are delivered from the territory of one member country to another without the movement of the Service Provider.
2. Consumption Abroad – In this mode, Consumers travel from one member country to another in order to receive services.
3. Commercial Presence – In this mode, a supply of service is established when a service provider or a company establishes a physical or commercial presence in another member country.
4. Presence of Natural Persons – In this mode, individuals travel from one member country to another in order to directly provide services. [11]

WTO DISPUTES UNDER DIFFERENT MODES OF SUPPLY

- **MODE 1 and MODE 2 - Cross Border supply and Consumption Abroad**

The United States — Measures Affecting the Cross-Border Supply of Gambling and Betting Services (DS285)

[9] Jandhyala B.G. Tilak, Trade in Higher Education: The Role of the General Agreement on Trade in Services (GATS), UNESCO: Int'l Inst. for Educ. Plan. (2011), https://unesdoc.unesco.org/ark:/48223/pf0000214997

[10] Ibid

[11] R. Khurana, WTO-GATS and the Education Sector in India, 4 Int'l Res. J. Soc. Sci. 76, 76–83 (May 2015), https://www.isca.me/IJSS/Archive/v4/i5/12.ISCA-IRJSS-2015-068.pdf

This landmark WTO dispute, which was initiated by Antigua and Barbuda in 2003, alleged that U.S. federal and state laws including the Wire Act and Illegal Gambling Business Act, which unfairly restricted the online gambling services of foreign providers, was in violation of U.S. commitments under General Agreement on Trade in Services (GATS). Antiguans alleged that such restrictions hurt their economy that highly depended on exporting online gambling. In 2004, the WTO Panel found that U.S. had committed under GATS to allow cross-border gambling services, but had violated such commitment using discriminatory measures in favor of domestic gambling services such as horse racing. While the U.S. invoked the public morals exception under Article XIV of the GATS, the WTO found that the application of its laws in a manner that was inconsistent with its international obligations ineffectively diminished any moral justification concerning gambling activities. The United States failed to comply with the ruling, leaving the matter unresolved and highlighting the challenges faced by smaller economies in enforcing WTO decisions against major powers, even though Antigua won the case and was authorized to impose sanctions of $21 million per year in 2007, including suspending U.S. intellectual property rights[12].

The primary issue this case was wether online gambling services was fell under the scope of Mode 1 (cross-border supply of services) or Mode 2 (consumption abroad) as laid down by the GATS. It mattered little to the outcome of the case, as the United States had similar commitments for "recreational services" under both Mode 1 and Mode 2[13]. On the balance though, post-decision, the general consensus among the government officials and scholars were to treat internet services, which would include online gambling, as falling within Mode 1 services, meaning that they would henceforth be treated as services provided from one jurisdiction to another rather than as being consumed abroad.[14]

- **MODE 3 – Commercial Presence**

[12] Tom Newnham, WTO Case Study: United States—Measures Affecting the Cross-Border Supply of Gambling and Betting Services, 3 Asper Rev. Int'l Bus. & Trade L. 95 (2007), https://journals.library.ualberta.ca/asperreview/index.php/asperreview/article/download/191/191/191
[13] Usman Ahmed, Brian Bieron & Gary Horlick, Mode 1, Mode 2, or Mode 10: How Should Internet Services Be Classified in the Global Agreement on Trade in Services?, Bos. U. Int'l L.J. (Nov. 24, 2015), https://www.bu.edu/ilj/2015/11/24/mode-1-mode-2-or-mode-10-how-should-internet-services-be-classified- in-the-global-agreement-on-trade-in-service/
[14] Supra 12

Mexico — Measures Affecting Telecommunications Services (DS204)

In the mid-1990s, the U.S. telecom company Sprint partnered with Telmex, Mexico's largest telecom provider, to offer long-distance services between the two countries. However, other U.S. companies like AT&T and MCI were unable to make similar agreements with Telmex and were denied access to its vast network. As a result, the U.S. filed a complaint with the World Trade Organization (WTO), asking the Mexican government to ensure that Telmex gave U.S. companies equal access, as required by the WTO's Telecommunications Reference Paper. In response, Mexico's telecom regulator, Cofetel, ordered Telmex to allow foreign long-distance carriers to use its network at fair rates. Still, the U.S., led by AT&T, was not satisfied with the outcome and escalated the issue to the WTO Dispute Settlement Body[15].

The WTO Panel found that Mexico violated its commitments under Section 5(b) of the GATS Annex on Telecommunications in two main ways. First, under Mode 3 (which involves having a commercial presence in another country), Mexico did not put in place laws or rules to ensure that foreign companies operating in Mexico could use private leased circuits (dedicated communication lines) to offer telecom services, as required by the agreement. Second, for services that don't rely on owning infrastructure (non-facilities-based services), Mexico only allowed international gateway operators to provide international telecom services. This blocked other commercial providers from connecting with foreign networks, which also went against Section 5(b). These failures made limited foreign companies from gaining fair access and use Mexico's telecom infrastructure fairly[16].

***Argentina — Measures Affecting Financial Services (DS453*)**

This case began when Panama challenged various tax measures imposed by Argentina on goods and services. Panama argued that these measures targeted specific countries

[15] Sonali Singh, The Telmex Dispute at the WTO: Competition Makes a Backdoor Entry, CUTS Ctr. for Competition, Inv. & Econ. Regulation, No. 1/2006, https://cutsccier.org/pdf/The_Telmex_Dispute_at_the_WTO-Competition_Makes_a_Backdoor_Entry.pdf

[16] World Trade Organization, WTO Dispute Settlement: One-Page Case Summaries 1995–2014, 2015 ed., https://www.wto.org/english/res_e/booksp_e/dispu_settl_1995_2014_e.pdf.

listed in Argentina's Regulations of the Income/Profit Tax Law, Decree 1244/98, as amended[17].

The WTO Panel found that a rule applying to service providers who withdraw their commercial presence still "affects" trade in services and therefore falls under the scope of Article I:1. According to the Panel:

"... the concept of 'measures ... *affecting trade in services' covers measures related to the 'constitution' or 'acquisition' of a legal person within the territory of a Member for the purpose of supplying a service. In our view, this is the case for the foreign exchange researcherization requirement. The fact that this requirement does not apply at the time of establishing a commercial presence in Argentina but rather at the time of withdrawing the investment from the Argentine market does not prevent this requirement from being related to the supply of services through commercial presence, in accordance with the definition of this mode in Article I:2 of the GATS.... In our view, a measure which, for example, totally prohibits repatriation of invested capital at the time of withdrawal from the market would most likely influence the supplier's decision as to whether or not to establish a commercial presence in that market. It is our view that a determination which implies leaving outside the scope of the GATS those measures which apply at the time when a legal person withdraws from a market could open up a breach in the Agreement, as it would mean that measures which influence the decision to set up in the territory of a Member would not be covered by the Agreement...*[18]

- **MODE 4- Presence of Natural Persons**

United States — Measures Concerning Non-Immigrant Visas (DS503)

The H-1B visa program allows skilled foreign workers, particularly Indians, to work in the U.S., but it has faced criticism for replacing American workers with lower-cost labor via means of outsourcing companies. In 2016, India brought a case against the U.S. at

[17] European Commission, WT/DS453: Argentina – Measures Relating to Trade in Goods and Services, EUR-Lex, https://policy.trade.ec.europa.eu/enforcement-and-protection/dispute-settlement/wto-dispute- settlement/wto-disputes-cases-involving-eu/wtds453-argentina-measures-relating-trade-goods-and- services_en

[18] Appellate Body Report, Argentina – Measures Relating to Trade in Goods and Services, WTO Doc. WT/DS453/AB/R (adopted Apr. 14, 2016)

the WTO, arguing that a significant increase in visa fees hurt the competitiveness of Indian IT services and violated the U.S.'s commitments under GATS Mode 4, which covers the movement of professionals[19]. The U.S. defended the fee hike, saying it was meant to prevent misuse and support security efforts, and claimed that visa rules relate to immigration, not trade. Although both countries held several rounds of consultations, the WTO Appellate Body couldn't issue a final decision due to its paralysis in 2020. Eventually, the dispute was settled bilaterally between India and the U.S.

GATS AND EDUCATION SECTOR

GATS AND CROSS BORDER HIGHER EDUCATION

Higher education continues to reform itself at an unprecedented rate in response to demand and challenge. Increasingly, it is being looked upon to address sustainable development and respond to the ever-growing need for lifelong learning. Innovative models including virtual universities, international branch campuses, and corporate universities are being born out of demand and technological advancement. Meanwhile, increasing commercialization of higher education has produced a number of challenges, thereby highlighting the need to keep on pressing for quality assurance and global acceptance of the educational qualifications.[20]

Definition of Cross border Education

Cross-border education refers to the movement of people, programs, providers, knowledge, ideas, projects and services across national boundaries. The term is often used interchangeably with "transnational education," "offshore education" and "borderless education."

A fuller description of cross-border education is included in the Guidelines for Quality Provision in Cross-border Higher Education jointly developed by UNESCO and the OECD. In that document, cross- border education is described as[21]:

[19] Marion Panizzon, US–India Visa Fee Controversy before the WTO: A Migration-Mobility Nexus for the WTO?, Nat'l Ctr. of Competence in Rsch. (2016), https://nccr-onthemove.ch/blog/us-india-visa-fee-controversy-before- the-wto-a-migration-mobility-nexus-for-the-wto/.
[20] Supra 7
[21] UNESCO & OECD, Guidelines for Quality Provision in Cross-Border Education, Paris (2005), http://www.oecd.org/dataoecd/27/51/35779480.pdf.

"higher education that takes place in situations where the teacher, student, program, institution/provider or course materials cross national jurisdictional borders. Cross-border education may include higher education by public/private and not-for-profit/ for-profit providers It encompasses a wide range of modalities in a continuum from face-to-face (taking various forms from students travelling abroad and campuses abroad) to distance learning (using a range of technologies and including e-learning)[22]."

THE FOUR MODES OF SUPPLY AND TYPES OF HIGHER EDUCATION

MODES OF SUPPLY	**EXAMPLES IN HIGHER EDUCATION**
Cross- Border Supply	• Distance Education • E- Learning • Virtual Universities
Consumption Abroad	Students who go to another country to study
Commercial Presence	• Local branch or Satellite campuses • Twinning partnerships • Franchising arrangements with local institutions
Presence of natural persons	Professors, teachers, researchers working abroad

Source: Knight, 2006[23]

THE THREE GENERATION OF CROSS BORDER EDUCATION

• The First Generation: People Mobility

[22] Ibid
[23] Supra 1

Student and scholar mobility has been a key feature of university systems since their inception. The word "university," stemming from "universe," highlights its naturally global character. What has notably changed over the past 50 years is the massive increase in student movement. For example, the number of international students went from 238,000 in the 1960s to 3.3 million in 2008. It's not just the numbers that have grown—mobility now includes full-degree courses, exchange programs, internships, and semester or year-abroad options. Destinations and motivations have also shifted significantly. By 2025, it's estimated that around 7.8 million students will be studying higher education outside their home countries. This rapid growth calls for creative and effective cross-border education solutions. The majority of this student flow will be to Asia, which is already home to the largest number of students seeking an international education. Asia is not only becoming more appealing to students from within the region, but to students from outside the region. Even with this trend, India has not yet positioned itself to be a world leader in the international student space.[24]

- The Second Generation: Programme and Provider Mobility

In the second phase of cross-border education, it is the academic programs and institutions, rather than students, who move across borders. Starting in the early 1990s, this trend zoomed into hyperdrive, breaking down more barriers for students to gain access to global education and earn overseas degrees—all while remaining in their home countries. Whether it is moving a program or institution across town or across the country, the motivations for movement are varied and represent a variety of ambitions. It is critical to address the diverse perspectives and expectations of important players, including students, foreign institutions (from sending countries), and host countries. Each country and region approaches cross-border education in its own unique way, based on local requirements and objectives. This variation demonstrates that there is no one-size-fits-all paradigm; rather, approaches are formed by the local context, culture, and national development goals.[25]

[24] Jane Knight, Three Generations of Cross-Border Higher Education, Occasional Publication No. 38, India Int'l Ctr. (2012), https://www.researchgate.net/publication/350671567_Three_generations_of_crossborder_higher_education_ ew_developments_issues_and_challenges
[25] Ibid

Program mobility includes models like franchise arrangements, twinning, double degrees, articulation agreements, validation, and online/distance learning.[26]

Provider mobility includes options such as branch campuses, independent institutions, study centers, affiliations or networks, and virtual universities[27]

- The Third Generation: Education Hubs

Education hubs build upon earlier forms of cross-border education by bringing together various activities and stakeholders into a more organized and strategic framework. An education hub is a planned effort by a country, city, or region to bring together a significant number of educational and knowledge-based institutions, aiming to boost its position in the global education arena. The concept of a national education hub is centered on a country's goal to become a leading center for higher education and research, both regionally and internationally. An education hub is much more than just a single branch campus, a tech park, or having many international students—it includes all of these elements and more. The term broadly applies to hubs of different sizes, whether at the city, zone, or national level, though this discussion focuses on national-level hubs. These hubs aim to attract a large number of both domestic and international institutions and individuals involved in education, training, research, and cross-border innovation.

By 2012, six countries had made notable progress toward becoming education hubs: two in the Gulf (UAE and Qatar), three in Asia (Hong Kong, Malaysia, and Singapore), and one in Africa (Botswana). Other countries may be using the term "hub" as part of their promotional efforts or are just beginning to develop their education hub strategies.[28]

INDIA'S OFFERS ON HIGHER EDUCATION UNDER GATS

India has no binding obligation under the GATS to open its higher education sector to foreign players, as it did not make any commitments in this area during the Uruguay Round. The steps India has taken to liberalize higher education—such as allowing 100% FDI through the automatic route and enabling foreign involvement through

[26] Ibid
[27] Ibid
[28] Ibid

twinning programs, partnerships, franchising, and subsidiaries—have been done independently. However, in its Revised Offer, India did include higher education services (CPC 923). In August 2005, as part of the Doha Round Trade Negotiations, India submitted its proposal for 'Market Access' in the Higher Education Sub-Sector to the GATS.[29] Although this offer was made, no binding commitment was finalized due to the failure to conclude the trade talks over the past decade. However, with the closure of the Doha Declaration, these offers have automatically become binding commitments.[30]

- **India's Revised Offer covers the following modes of service delivery:**

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

4) Presence of natural persons

LIMITATIONS ON NATIONAL TREATMENT	**LIMITATIONS ON MARKET ACCESS**	**SECTOR OR SUB-SECTOR**	**ADDITIONAL COMMITMENTS**
5.EDUCATIONAL SERVICES Higher Education Services (CPC 923)	1) None subject to the condition that service providers would be subject to regulations are applicable to domestic providers in the country of orgin. 2) None 3) None subject to the condition that fees do not lead to	None None None	

[29] Vikram Singh, Higher Education of India on the Way to Nairobi for GATS, People's Democracy (Aug. 26, 2015), https://peoplesdemocracy.in

[30] *Ibid*

	charging capitation fees or to profiteering. Subject further to such regulations, already in place or to be prescribed by the appropriate regulatory authority. In the case of foreign investors having prior collaboration in that specific service in India. FIPB approval would be required. 4) Unbound except as in the horizontal section.	None	

Source: Ministry of Commerce and Industry[31]

GATS AND MODE- WISE INITIATIVES IN INDIA

- **MODE 1- CROSS BORDER SUPPLY**

1. SWAYAM (Study Webs of Active Learning for Young Aspiring Minds)

SWAYAM is an Indian government initiative that aims to promote the National Education Policy's fundamental ideals of access, equity, and excellence. Its mission is to deliver high-quality educational resources to everyone, particularly those from underserved communities, thereby bridging the digital divide. It enables students who were previously excluded from the digital learning space to engage in the growing knowledge economy.

[31] https://commerce.gov.in/wp-content/uploads/2020/09/revised_offer1.pdf

The Online Degree platform, supported by SWAYAM, functions as a learning management system that allows educational institutions to offer online and distance learning degree programs, as well as skill development courses. This platform seeks to improve India's Gross Enrollment Ratio (GER) and also opens doors for international students to access quality education from Indian Higher Educational Institutions (HEIs).

All courses are UGC-approved, and students must apply through the respective universities. Once selected, they are enrolled in their chosen programs. The course structure follows SWAYAM's four-part model: video lectures, downloadable reading materials, self-assessment quizzes, and online discussion forums. Additionally, universities assign mentors to help students by answering their queries and monitoring their academic progress[32]

2. NPTEL MOOCS

NPTEL (National Programme on Technology Enhanced Learning) is a joint initiative by the Indian Institutes of Technology (IITs) and the Indian Institute of Science (IISc), funded by the Ministry of Education (MoE), Government of India. Initially launched to deliver quality education across the country, NPTEL has grown to offer more than 600 certification courses each semester, spanning 22 academic disciplines. It is recognized as the world's largest online repository of courses in engineering, basic sciences, and selected subjects in humanities and management. The NPTEL YouTube channel stands out as one of the most subscribed educational channels, with over 40 lakh subscribers and more than 1.3 billion views. The platform hosts over 56,000 hours of video content, all of which are transcribed and subtitled for better accessibility. In fact, it is the most accessed library of peer-reviewed educational content globally, with over 12,000 hours of English transcripts translated into various regional Indian languages to support inclusive learning[33].

The NPTEL Online Certification program is designed to provide students with industry-relevant knowledge and skills to boost their employability or help them pursue higher education. Courses are available in 4, 8, and 12-week formats, covering a wide range of topics—from foundational science and humanities to technology and tool-based subjects. While enrollment and access to course materials are completely free, students

[32] Swayam, About Online Degree, https://online-degree.swayam2.ac.in/about (last visited Mar. 28, 2025).
[33] NPTEL, About Us, https://nptel.ac.in/aboutus (last visited Mar. 28, 2025).

must register for and attend a proctored, in-person exam to receive a certificate, which is jointly issued by participating academic institutions and industry collaborators. Between March 2014 and December 2021, NPTEL saw more than 1.58 crore course enrollments, 3,496 completed courses, and over 15.1 lakh exam registrations. These courses are open to learners around the world, allowing anyone, regardless of location, to access quality education and earn certifications[34].

3. Private E-Learning Platforms

Byju's

BYJU'S, founded by Byju Raveendran in August 2015, has rapidly grown into one of India's top educational tutoring platforms. It offers interactive and engaging learning programs for a wide spectrum of kids, from LKG and UKG to K-12, as well as those preparing for competitive exams like NEET, IAS, and JEE. The platform currently has more than 70 million registered users, 4.5 million of them are paid customers. BYJU'S is known for its visually rich and dynamic learning experience, which has contributed to its popularity both in India and beyond. In 2019, it expanded its global footprint by acquiring Osmo, a U.S.-based learning platform. Furthering its innovation in early childhood education, BYJU'S collaborated with Disney in June 2020 to launch the Disney-BYJU'S Early Learning App, aimed at children aged six to eight, incorporating Disney characters and storytelling to enhance engagement. The company has secured $969 million in investments from various backers. During the COVID-19 pandemic, BYJU'S made its app free for students until the end of April 2020 to support uninterrupted learning, a move that resulted in a remarkable increase of 13.5 million new subscribers[35]

Vedantu

Vedantu is a prominent online tutoring platform in India that began in 2011 as a joint venture with Bangalore-based Vedantu Innovations Pvt. Ltd., and later transitioned into a full-fledged online learning platform in October 2014. It was founded by IIT alumni Vamsi Krishna, Anand Prakash, and Pulkit Jain. Vedantu offers live, interactive classes

[34] NPTEL, International, https://nptel.ac.in/international (last visited Mar. 28, 2025)

[35] Dr. Sarang Javkhedkar, Dr. Anjali Shrungarkar & Amogh Ambekar, India's Emerging E-Learning Platforms: A Strategic Analysis, 2 Int'l J. Advanced Rsch. Sci. Commc'n & Tech. 1 (2022), https://ijarsct.co.in/Paper2931.pdf.

led by qualified instructors, focusing on real-time engagement between students and teachers to enhance the learning experience. With a team of over 500 teachers, the platform has successfully educated more than 40,000 students across 1,000+ cities in over 30 countries, delivering millions of hours of instruction. Vedantu mainly serves students in grades 4 to 12 under the ICSE and CBSE curricula in India and the Middle East. It also offers preparation courses for various competitive exams, including IIT-JEE, NTSE, PSE, the International Mathematics Olympiad, and the National Science Olympiad[36]

4. MOOCs Offered by Indian Universities

Several leading Indian universities, including the Indian Institutes of Technology (IITs), have expanded their reach by offering online certification courses and Massive Open Online Courses (MOOCs) to international students.

MooKIT- One such initiative is MooKIT, developed by the Indian Institute of Technology, Kanpur (IITK) in 2014. MooKIT is a lightweight MOOC management system built entirely using open-source technologies, designed to support online learning at various scales—from small cohorts to large, massive audiences. It is particularly effective in environments with low bandwidth and limited computing resources, making it accessible across diverse technological settings[37]. So far, MooKIT has been used for 15 courses and currently offers more than 200 online courses, attracting participants from over 90 countries[38]

IIT Bombay X- Another major player in this space is IIT Bombay X, which started in 2014 and was created by the Indian Institute for Technology (IIT) in Bombay. It's based on the Open edX open-source platform and created with funding from the National Mission on Education through Information and Communication Technology (NME-ICT), of the Ministry of Human Resource Development (MHRD), Government of India. With IIT Bombay X, the Indian Institution of Technology, Bombay offers another breed of courses from multiple disciplines and steadily increases the online high-quality course repository of Indian institutions.[39]

5. Online Programs by IGNOU

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[36] Ibid

[37] Mithun Sharad Patil & Mandar Moreshwarrao Kulkarni, A Study of Massive Open Online Courses (MOOC's), in Proceedings of the Twenty-First AIMS International Conference on Management (2023), https://aims- international.org/aims21/21AProceedings/PDF/A1174-done.pdf.

[38] MooKIT, https://www.mookit.in/ (last visited Mar. 28, 2025)

[39] Supra 36

The Indira Gandhi National Open University (IGNOU) is recognized as the world's largest university, with around 3.3 million students currently enrolled. Its enrollment numbers have grown steadily over the years, now exceeding 13.3 lakh active registrations. IGNOU offers 181 academic programs and operates through a vast network of 56 Regional Centres and more than 3,000 study centres across India, in addition to 29 partner institutions overseas. The university has been instrumental in promoting distance education and serves as a National Resource Centre for Open and Distance Learning. It is known for adopting innovative technologies and globally recognized teaching methods. As one of the early adopters of Information and Communication Technology (ICT) in education, IGNOU continues to use modern digital tools to meet the changing needs of its learners. Initiatives like online admissions and digital exam form submissions have been widely accepted, reflecting the growing digital literacy among its students and their readiness for further digital advancements[40]. Alongside these developments, many Indian students are also turning to international e-learning platforms such as Coursera, edX, XuetangX, Udacity, and FutureLearn to pursue online education[41]

- **MODE 2- CONSUMPTION ABROAD**

Student mobility is a key indicator of the internationalization of higher education, and the number of students pursuing studies outside their home countries has seen substantial growth, with the trend expected to continue. India represents one of the largest groups of students seeking education abroad. As of December 2020, over 10 lakh Indian students were enrolled in foreign institutions, according to the Ministry of External Affairs (MEA, 2021). In contrast, the number of international students coming to India for higher education remains relatively small. The All India Survey on Higher Education (AISHE) 2019–2020 reported that only 49,348 foreign students were studying in India[42]

[40] IGNOU, Online Programmes Brochure for International Students, https://iop.ignouonline.ac.in/docs/brochure_for_international_students.pdf (last visited Mar. 28, 2025)
[41] Dr. Vijeta Banwari, Role of MOOCs in Indian Higher Education, 5 JETIR (Dec. 2018), https://www.jetir.org/papers/JETIR1812A54.pdf.
[42] University Grants Commission, Guidelines for the Internationalisation of Higher Education, Ministry of Education, Gov't of India (July 2021), https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/int_he.pdf.

By 2023, the number of Indian students pursuing education overseas had surpassed 1.2 million, and this figure is projected to reach between 1.5 to 2 million by 2025[43].

Study in India Programme

The Study in India (SII) programme is a flagship initiative by the Indian government, aiming to attract 500,000 international students to pursue higher education in India by the year 2047. This ambitious goal was announced by NITI Aayog CEO BVR Subrahmanyam during the 18th FICCI Higher Education Summit held in New Delhi on November 29, 2023.[44] He emphasized that India is actively working to enhance the quality of education, strengthen its global brand, and improve international rankings to boost the inflow of foreign students. Education is a central component of NITI Aayog's 2047 vision document, which envisions India as a global hub for education.[45]

During a panel discussion at the summit, it was noted that the Ministry of Education (MoE), in collaboration with EdCIL, is focusing on integrating advanced technologies into the education sector. Universities were encouraged to incorporate Artificial Intelligence (AI) to remain competitive and align with the evolving demands of the global academic environment.[46]

To facilitate international student enrollment, Indian student visas are issued to foreign nationals who have received admission offers from recognized institutions participating in the Study in India program. These visas are granted by Indian Embassies or Missions and allow students to pursue full-time academic programs in India, including undergraduate, postgraduate, PhD, and other formal courses approved by statutory or regulatory bodies.[47]

- ❖ **MODE 3- COMMERCIAL PRESENCE**

Twinning, Joint and Dual degree Programmes

Indian higher educational institutions (HEIs) operate twinning, joint, and dual degree programs in accordance with the University Grants Commission's (UGC)

[43] Decline in Indian Overseas Education Trends: Factors Behind the Shift and Future Outlook," The Times of India (July 25, 2024), https://timesofindia.indiatimes.com/education/news/decline-in-indian-overseas-education-trends-factors-behind-the-shift-and-future-outlook/articleshow/112021660.cms.

[44] Ayushi Gupta, Study in India Initiative Aims to Attract Half a Million Foreign Students by 2047, Education Times, The Times of India (Nov. 23, 2023), https://www.educationtimes.com/article/newsroom/99734225/study-in-india-initiative-aims-to-attract-half-a-million-foreign-students-by-2047.

[45] Ibid

[46] Ibid

[47] Study in India, Onboarding & FRRO of International Students, Study in India, https://studyinindia.gov.in/onboarding-frro-of-international-students

regulations48. As per the latest guidelines, 230 Indian and 1,256 foreign HEIs are currently eligible to offer these types of collaborative academic programs. In a twinning program, students enrolled in Indian HEIs complete part of their coursework in India and the remaining portion at a foreign university, with the final degree awarded solely by the Indian institution. Joint degree programs involve a jointly designed curriculum by both the Indian and foreign institutions, culminating in a single degree certificate issued by the partner institution. For such programs, students must earn at least 30% of their total credits from each of the participating institutions. In dual degree programs, both the Indian and foreign HEIs award separate degrees simultaneously, provided the student completes at least 30% of the total credits at the Indian institution. Credit transfers and recognition are permitted, but overlapping course content is not allowed, and these programs must be conducted through regular modes, not via online or open distance learning formats.[49]

Presence of Foreign University Campus in India

Besides these collaborative programs, the UGC announced on November 8, 2023, sweeping new regulations for the establishment and operation of foreign university campuses in India. These guidelines are intended to be in consonance with the National Education Policy (NEP) and foster internationalization of higher education by making entry of Foreign Higher Educational Institutions (FHEIs) into India easy and straight forward.[50] Complementing this initiative, the International Financial Services Centres Authority (IFSCA) has introduced regulations to encourage foreign universities to set up offshore campuses in GIFT City, with provisions allowing them to repatriate their profits[51]

- **MODE 4- PRESENCE OF NATURAL PERSONS**

India has undertaken multiple initiatives to improve internationalization in education and research, and notable examples of such efforts include the Global Initiative of

[49] R. Sujatha, UGC Makes Latest Norms Must to Offer Joint Degrees with Foreign Varsities, The Hindu (Sept. 22, 2022), https://www.thehindu.com/news/national/ugc-makes-latest-norms-must-to-offer-joint-degrees-with-foreign-varsities/article65919132.ece.

[50]UGC Announces Regulations for Establishment and Operation of Campuses by Foreign Universities in India, The Hindu (Nov. 9, 2023), https://www.thehindu.com/news/national/ugc-announces-regulations-for-establishment-and-operation-of-campuses-by-foreign-universities-in-india/article67513845.ece.

[51] Norms for Foreign Universities to Set Up Campus in GIFT City, The Hindu (Oct. 16, 2022), https://www.thehindu.com/news/national/norms-for-foreign-universities-to-set-up-campus-in-gift-city/article66014946.ece.

Academic Networks (GIAN) and the Scheme for Promoting Academic Research and Collaboration (SPARC).[52] They have been explained below –

1.GIAN (Global Initiative for Academic Networks)

The Global Initiative for Academic Networks (GIAN) was launched in 2015 by the Ministry of Human Resource Development (MHRD), Government of India. The initiative aims to invite famous overseas academics to Indian institutions to teach short-term courses. GIAN is a one-of-a-kind initiative that seeks to promote direct connection between internationally renowned researchers and Indian students. It benefits both domestic and international students, as well as faculty members on Indian campuses, by establishing a vibrant and diverse academic atmosphere. One of the key objectives of GIAN is to increase the influx of international students to Indian educational institutions. The program is supervised by the Secretary of Higher Education, MHRD, and is managed by a designated national-level institute responsible for its implementation across the country.[53]

2.SPARC (Scheme for Promotion of Academic and Research Collaboration)

The Scheme for Promotion of Academic and Research Collaboration (SPARC) was officially launched in 2018 by the then Minister of Human Resource Development, Shri Prakash Javadekar, who unveiled the scheme's web portal in New Delhi. During the launch, the Minister emphasized that SPARC's primary aim is to strengthen the research ecosystem within India's higher education sector by encouraging academic and research collaboration with premier global institutions. Under this initiative, 600 joint research projects are slated to be funded over a two-year period to build strong research linkages between Indian researchers and top-tier international universities. The focus of these collaborations includes advanced scientific domains and socially relevant issues, particularly those pertinent to India. The Government of India approved the SPARC scheme in August 2018, allocating a total budget of Rs. 418 crore for its execution up to March 31, 2020. The Indian Institute of Technology (IIT) Kharagpur has been

[52] Sivankutty V. S. & Jinu Sudhakaran, Global Initiative of Academic Networks (GIAN): An Indian Initiative of Academic Collaboration, 21 Res. & Reflection on Educ. 2A (June 2023), https://www.researchgate.net/publication/375030095_GLOBAL_INITIATIVE_OF_ACADEMIC_NETWORKS_GIAN_AN_INDIAN_INITIATIVE_OF_ACADEMIC_COLLABORATION.
[53] Ibid

appointed as the National Coordinating Institute for the administration of the SPARC program. [54]

The two core objectives of SPARC are: (1) to facilitate visits and extended stays of international faculty and researchers at Indian institutions for the purposes of teaching and research, and (2) to provide opportunities for Indian faculty members to engage in academic and research collaborations through visits to foreign institutions.[55]

BRAIN GAIN VS BRAIN DRAIN

Brain Drain

Brain drain refers to the emigration of skilled or educated individuals from their home country to other countries, including in some cases to hostile adversarial states. This brain drain largely takes the form of migration of highly skilled, professionally qualified people and knowledge workers, often from the global south to the global north. The chief driving force behind this trend is the aspiration for improved financial prospects and the advantage of earning in stronger foreign currencies such as the US dollar.[56]

This movement has the effect of draining a lot of skill and specialized human capital from the countries of origin, thus creating acute shortages in very key sectors. It is clearly advantageous to the host countries, as it expands their talent pool. This phenomenon has been aptly referred to by some scholars as the "neo-colonialism of the mind" — a new and more insidious form of classic colonialism that still serves to reproduce North-South disparities in the global academic landscape. This form of dependence further heightens the vulnerability of developing nations and grants geopolitical leverage to wealthier countries.[57]

Brain drain isn't only a challenge at the individual level – it negatively affects the state of higher education itself in developing areas, where universities and colleges frequently struggle with a shortage of well-trained teachers, poor infrastructure, restrictive leave policies, internal and external conflict, comparatively lower

[54] Press Information Bureau, Government of India, Scheme for Promotion of Academic and Research Collaboration (SPARC) (Oct. 25, 2018), https://www.education.gov.in/sites/upload_files/mhrd/files/PR_SPARC.pdf.

[55] Ibid

[56] N. Srividya & Rita Basu, Shifting from 'Brain Drain' to 'Brain Gain' in the Indian Scenario – An Overview (Jan. 2024), https://www.researchgate.net/publication/377781033_Shifting_From_'Brain_drain'to'Brain_gain'in_the_Indian_scenario-An_Overview.

[57] Supra 9

compensation. These forces further sharpen the brain drain suffered by states for which experienced professionals migrate to other locations.[58]

India in particular has become one of the biggest exporters of this skilled human capital to developed nations, exceeding all but a handful of other large source countries in the total number of these experts it sends outside its borders. According to estimates from the United Nations Development Programme (UNDP) India loses about $2 billion a year because computer professionals emigrate to the United States. Furthermore, the migration of Indian students wishing to pursue higher studies abroad is causing an outflow of foreign exchange at the rate of $10 billion per year.[59]

Brain Gain

Brain gain is the opposite of brain drain, in which skilled professionals and students decide to go back to India for work, career opportunities or education. Brain gain takes initiative, leadership, and support by—and sometimes direct involvement of—governmental bodies and higher education institutions.[60]

As a result, in many cases the students that have gone abroad return home armed with cutting-edge knowledge and specialized expertise, thus positively impacting the domestic workforce. This return migration is further instrumental in enabling the transfer of cutting-edge technology and best practices from developed to developing nations. Recognizing the range of benefits they bring, some developing countries have established scholarship schemes to subsidize international education for their students, with the long-term, strategic goal of harnessing the abilities they develop abroad when they return home.[61]

Reversing Brain Drain to Brain Gain – An Indian Perspective

As the most basic driver of economic development, human capital has the ability to enhance or deteriorate a nation's economic prosperity. Countries respond by implementing the best techniques according to their socioeconomic and geographic conditions. For example, a number of African countries have imposed tight emigration limits in an effort to retain competent emigrants, whereas Kuwait concentrates on creating national security and future hope among its elite to keep them from moving away.

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[58] Shanti Mukta Kullu, A Study of Brain Drain in Higher Education in India, 12 IJCRT 8 (Aug. 2024), https://ijcrt.org/papers/IJCRT2408740.pdf.
[59] Supra 55
[60] Ibid
[61] Supra 9

India continues to face the problem of brain drain even in the contemporary scenario. As far as the government is concerned, this expatriate lifestyle is governed by the expectation that expatriates, one day, will return and play a vital role in national development. The United Nations Educational, Scientific and Cultural Organisation (UNESCO) described brain drain in 1969, as an "abnormal type of scientific exchange among countries, distinguished by a one-way movement which serves advanced countries to the exclusion of developing countries." This definition is still relevant, with hundreds of thousands of highly educated Indian workers still leaving for developed countries. As per a World Bank study, India is the third highest emigration country in the world after the United Kingdom and the Philippines in emigration numbers. These emigrants represent a small fraction of India's graduate stock, compared to countries such as Ghana and Guyana that have only about 47 and 89 percent of their student bodies, respectively, studying abroad.

Today, the continuing wave of Indian students increasingly eyeing quality higher education overseas only deepens the imperative. Former President of India Dr. APJ Abdul Kalam was instrumental in reversing this trend through Mission. Reverse brain drain is a crucial aspect of India's path to become a developed country. However, the rate of students returning to India after studying overseas is extremely low. This highlights the increased urgency of addressing the drivers of outbound migration. Central to this attempt is a total re-imagining of the domestic education system, as well as the growth of higher education facilities, allowing students to get world-class education within India. While the migration of students has elevated India's visibility and reputation on the global stage, the focus must now shift from merely supplying global talent to cultivating and retaining it. Although Indians generally express pride in their nationality, the objective should be to ensure they also feel a strong sense of pride in residing and working within India. Facilitating brain gain is therefore critical to redefining India's global standing. India must transition from being known exclusively as a source of competent talent to becoming an international hub for high-caliber experts, particularly in Western countries. Dr. Kalam underlined that attaining this needed concerted efforts from both the government and academic institutions. Improving the overall quality of education is critical to eliminating Indian students' perceived desire to seek better prospects abroad. A high-quality educational framework is critical for promoting long-term economic growth and increasing intellectual capital retention.

To initiate this systemic transformation, a number of qualitative improvements in education are necessary:

1. The quality of education must be enhanced to address contemporary issues and cater to the evolving needs of students.
2. Students should be given exposure to global environments and current practices prevalent in the corporate world.
3. Beyond academic knowledge and curriculum-based learning , students need practical exposure to the realities and pragmatism of the corporate sector.[62]

[62] Supra 55

CHAPTER 3

HISTORY OF THE ARRIVAL OF FOREIGN UNIVERSITIES IN INDIA

"India has been the cradle of the human race, the birthplace of human speech... and home to the first universities, where the torch of knowledge was kindled.

~ Mark Twain

This chapter explores the evolution of education in India, beginning with its ancient roots and progressing to contemporary developments that have influenced the establishment of international branch campuses (IBCs). It examines the historical relevance of Indian higher education.

It emphasizes how, at one point in time, India was positioned as a pivotal international center of learning in the shadows of high laurels of the likes of Takshashila, Nalanda, and Vikramshila. These universities were symbols of intellectual exchange and academic brilliance, thus attracting students from around the globe[63].]

The contemporary higher education scenario in India has witnessed significant upheaval. Modern-day institutions and governments are more focused on enhancing global competitiveness, technological advancement, and market-driven objectives in the higher education sector, as growing pressures of global competition and commercialization have overshadowed the traditional values of intellectual achievement and cultural openness.[64]

Globalization has played a pivotal role in transforming how education systems operate worldwide.

The growing demand for more accessible, high-quality higher education has been built by various factors, such as increasing private investments, shifts towards market economies, rapid technological progress, increased cross-border mobility of the workforce, decreased reliance on public funding, and the widespread adoption of lifelong learning practices.

Despite being a nation dotted with educational institutes aplenty, only an embarrassing few can be counted among the elite set of institutions that truly put the country on the map. This reiterates the need for reforms that would improve caliber and relevance of

[63] Dr. Saima Siddiqi, The Internationalisation of Higher Education in India: Problems and Solutions, 17 Academe 1 (Jan. 2014), https://www.hpuniv.ac.in/upload/uploadfiles/files/6.pdf.
[64] Ibid.

such establishments in comparison to their global counterparts. Indian students today increasingly aspire to receive an education that matches international standards right within their home country without having to pursue expensive study opportunities abroad[65].

Across the world, universities are responding to these shifts by expanding their international engagement. In recent years, new forms of study-abroad opportunities have been created alongside traditional ones, including internationalized curricula-and with the goal to infuse in students cultural awareness and global skills. Keeping pace with the integration of technology in educational delivery methods has opened up innovative learning experiences, making them easy and accessible. Many universities now work to assist students in countries where local institutions cannot handle the growing demand for higher education, in addition to serving their own populations. All these efforts speak to the wider impetus to equip graduates with relevant skills and knowledge that would allow them to thrive in an interconnected world. As a result, programs supporting foreign language acquisition and cross-cultural understanding receive growing focus.

In this evolving educational environment, international branch campuses have emerged as a strategic solution to bridge the gap between domestic and global educational standards.These campuses established by foreign universities in host countries such as India provide international curricula, faculty recognized internationally, and environments conducive to cultural interchange and academic excellence. The demand for such campuses is generated by the aspirations of Indian students who seek high-quality education that meets international standards, as well as policy initiatives that are conceived to attract international joint ventures and investments in the higher education sector[66].

This chapter will focus on the historical, institutional, and policy developments that have shaped India's approach to international branch campuses and examine their potential to enhance the country's higher education ecosystem significantly.

DEFINITION OF INTERNATIONAL BRANCH CAMPUS

An international branch campus, as defined by the Cross-Border Education Research Team (C-BERT), refers to an educational entity that is at least partially owned by a

[65] Ibid.
[66] Ibid.

foreign higher education institution[67]. This campus operates under the name of the foreign university and offers a comprehensive academic program delivered primarily on-site, culminating in a degree awarded by the foreign institution. In a more policy-focused interpretation, the Commission on Institutions of Higher Education (CIHE) defines a branch campus as a geographically separate unit from the main campus that provides at least 50 percent of an academic program leading to a degree, certificate, or other recognized qualification. Such a campus is expected to be permanent, have its own faculty and administrative structure, and possess independent budgetary and hiring authority. Currently, there are approximately 333 international branch campuses operating around the world, representing 39 home countries and located across 83 host countries [68].

The abovementioend figures indicate the increasing significance of cross-border education as a method to improve global access to quality higher education. In reaction to these global trends, the Indian government has made the important move of permitting foreign universities to set up campuses in the nation. This policy development is posed to offer multiple benefits to both, the Indian Education system, as well as the stakeholders relevant to the same.

One of the primary advantages of this development is that Indian students will have the opportunity to access world-class education within their own country, thereby reducing the financial burden associated with studying abroad. This model reflects successful instances like New York University's Abu Dhabi campus and Northeastern University's London campus, where students obtain an equivalent quality of education as their counterparts in their home nation. Additionally, this effort corresponds with India's goal to evolve into an international education center. The nation seeks to achieve multiple benefits via attracting foreign universities - they include attracting global talent, bulding international business ties, and income generation, all while offering middle class students affordable opportunities to high quality education and skills that are relevant to global job market requirements[69].

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[67] Cross-Border Education Research Team, International Branch Campus, CBERT, https://www.cbert.org/intl-campus.

[68] Asta Radzeviciene & Egle Girdzijauskaite, International Branch Campus: Framework and Strategy, 110 Procedia - Soc. & Behav. Sci. 301, 301–08 (2014), https://www.researchgate.net/publication/270546063_International_Branch_Campus_Framework_and_Strategy

[69] Dasgupta, Hirak & Sanjay Krishnapratap Pawar, International Branch Campuses in India: An Alternative to Studying Abroad!, 11 Cogent Educ. (2024), https://doi.org/10.1080/2331186X.2023.2292848.

In addition to the aforementioned advantages, IBCs are expected to enhance the overall productive capacities of India's higher education system.As communities strain under the pressure of increased demand for higher education, especially among the booming young population, IBCs can help get more students enrolled and diversify academic offerings.Their existence also aids in the growth of human capital by promoting skill development, which subsequently supports wider economic expansion. By motivating international students to study and stay in India after completing their degrees, the nation can benefit from their input to the labor market and economy, similar to Singapore, which deliberately supports IBCs to enhance its economic growth[70].

An additional benefit of opening international campuses is the added competitiveness it brings to colleges back home. Finally, the presence of such prestigious global institutions is bound to create an environment which pushes local universities to improve their standards, implement best practices, and carry out transformational reforms.This new competitive climate drives the government to create quality assurance mechanisms and hold Indian academic institutions accountable to the highest academic and administrative standards[71].

Collectively, these data demonstrate a substantial shift in India's higher education environment, with international branch campuses poised to play an important role in its expansion.

REASONS FOR THE NEED OF INTERNATIONAL BRANCH CAMPUS

India's need for international branch campuses (IBCs) stems from several critical challenges and aspirations, many of which are emphasized in the National Education Policy (NEP). Even with the world's second-largest higher education system, which includes over 990 universities and 40,000 colleges, none of these institutions regularly rank among the best in global university lists. This lack indicates more profound systemic problems, such as a heavily bureaucratic framework that has obstructed innovation, flexibility, and institutional development. The Global Talent Competitive Index places India at the 72nd position among 132 countries because of its struggles to bring in skilled professionals who drive national development[72].

[70] Ibid.
[71] Ibid.
[72] Antara Sengupta, The Higher Education Commission of India Bill: A Failure of Imagination, Observer Research Foundation, Issue No. 252 (Aug. 2018), https://www.orfonline.org/english/research/the-higher-education-commission-of-india-bill-a-failure-of-imagination.

The need for change becomes more pressing because India continues to rapidly expand its higher education system. The current gross enrollment ratio stands at 26% and experts predict it will reach 50% by 2035. The nation must implement substantial improvements in infrastructure and faculty quality and educational techniques to achieve this expansion. International branch campuses can resolve these requirements through their implementation of advanced educational tools and worldwide educational standards and diverse academic approaches. The presence of these campuses may inspire local institutions to adopt better practices while breaking free from outdated systems and rigid administrative protocols. The expanding number of Indian students who study abroad continues to boost the requirement for International Branch Campuses (IBCs). The year 2019 saw about 750,000 Indian students go overseas to study which cost them $15 billion annually. Indian students select foreign educational institutions because they want to access high-quality learning experiences which are unavailable within the country. Domestic international branch campuses present students with equivalent educational quality from world-class institutions at a reduced educational cost.This would not only ease the financial burden on families but also help retain talented individuals who might otherwise settle in foreign countries, leading to a significant brain drain[73].

Recent data reinforces the scale of this outward movement. According to statistics released by the Ministry of Education in February 2023, the number of Indian students going abroad for higher education rose sharply to 750,365 in 2022, a 68% increase from 444,553 in 2021. This huge influx of young, educated people poses economic and developmental concerns for India. In response, the University Grants Commission (UGC) has taken aggressive initiatives to attract prominent foreign universities to set up campuses in India. This policy initiative aims to give globally recognized education to Indian students on a home scale, reducing the need for them to travel abroad while preserving the benefits of their skills and knowledge within the country[74].

A GLIMPSE INTO ANCIENT INDIA'S HIGHER EDUCATION SYSTEM

Education has held a place of profound importance in Indian society since ancient times. The early Indian education system was centered around gurukuls and ashrams,

[73] Ibid.

[74] Poornima Thampy & Rebecca Devaprasad, An Analysis of Demand for Foreign University Campuses in India, 11 Int'l J. Econ. 10-17 (Sept. 2023), available at https://ideas.repec.org/a/acg/journl/v11y2023i4p10-17.html.

where learning extended beyond academic knowledge to include moral and spiritual instruction. The presence of renowned institutions like Takshashila and Nalanda, contributed to India's reputation as an abode for learning. These institutions made a significant contribution to students' intellectual and ethical growt, and they attracted students from across Asia, including regions like Tibet, China, Japan, Korea, Sumatra, Java, and Sri Lanka, who were drawn by the intellectual and spiritual depth of Indian education despite the challenges of travel[75].

Historically, India was viewed not just as a land of spiritual heritage but also as a global center for organized and systematic education. As early as 800 B.C., or even earlier, the subcontinent was home to structured universities offering advanced learning. The Indian education system stood out for its holistic approach, emphasizing personal growth, ethical living, and intellectual development. It promoted the principle of "simple living and high thinking" and upheld the sacred purpose of learning as a means to uncover inner potential and live a meaningful life. The quality and depth of knowledge shared in Indian institutions made the country a guiding force for many civilizations.The movement of scholars between India and other parts of Asia reflects the strength of these academic exchanges. Prominent Chinese scholars such as Xuan Zang (Hiuen Tsang) and Yi Jing (I-Tsing) traveled to India to study Buddhist philosophy and scriptures. Yi Jing recorded that as many as 56 scholars from India, Japan, and Korea came together to pursue knowledge. At the same time, Indian intellectuals traveled to China to help with the translation and dissemination of Buddhist texts. In the tenth century, for example, Dharmadeva, a Nalanda monk, traveled to China and translated various books. Similarly, Vikramshila, another well-known university, maintained strong intellectual links with Tibet. Atisa, a distinguished teacher and head monk of Vikramshila, traveled to Tibet to spread Buddhist teachings. Such interactions highlight India's role in the global flow of ideas and its deep-rooted legacy in science, philosophy, and education long before the arrival of scholars like Al Biruni[76].

Several institutions across ancient India served as distinguished centers of higher education. Takshashila University, dating back to the 6th century BCE, is recognized

[75] Prof. Dr. Veenus Jain, International Study Exchange: Glimpses from Indian History, 1 Int'l Sci. J. Contemp. Res. Eng'g, Sci. & Mgmt. 78, 78-84 (2016), https://www.researchgate.net/publication/332833336_International_Study_Exchange_Glimpses_from_Indian_History.

[76] Ibid.

as one of the earliest universities in the world. Other notable institutions included Odantapuri, which flourished between 550 and 1040 CE, as well as Manyakheta University and Nagavi University.The first Sanskrit Mahavidyalaya to be established in the 14th century near Srinagar in the Kashmir Valley was founded by Pandit Purshottamji Koul. This university quickly grew to become the world center of Sanskrit studies, drawing students from far and wide. Nalanda University emerged as the most prestigious and perhaps the most important institution, with an enrollment of 8,000 students and a faculty of 1,500 teachers. It's said that Nalanda welcomed as many as 100 lectures a day, giving just a glimpse of the energy and intensity of the academic environment that thrived there[77].

Collectively, these historic pillars of free thought and inquiry highlight not only India's centuries-old respect for education and the primacy placed on the free pursuit of knowledge domestically and externally to its borders, but its venerated position in the global intellectual tradition.

THE CONCEPT OF VISWAGURU

The country of India aims to restore its traditional position as a "Vishwa Guru" by contributing valuable knowledge to the global community. The Ministry of Education implemented the National Education Policy (NEP) 2020 which embodies India's mission to fulfill its world teacher status. The National Education Policy has an objective to enhance India's higher education system to match international standards and attract students from abroad. Through its guidelines to match international educational benchmarks and promote foreign student enrollment the policy aims to create India as a worldwide educational center. The realization of this vision through education faces numerous worldwide problems which include cultural conflict resolution and academic excellence maintenance and the establishment of long-term international alliances[78].

The idea of India as "Vishwa Guru" originates from its extensive cultural heritage and intellectual legacy. India aims to be a global knowledge provider through its basic three pillars. The first pillar exists because India's ancient civilization and cultural heritage

[77] Mahesh K. M., P. S. Aithal & K. R. S. Sharma, Literature Review on Indian Ancient University in Importing Holist and Multidisciplinary: To Create Indian Knowledge System (IKS), 2 Int'l J. Phil. & Lang. 1, 1-17 (2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4714624

[78] Prof. (Dr.) Shree Raman Dubey, India as a Global Study Destination: As Vishwa Guru - A Case Study on Future Readiness for Implementing NEP-2020, 9 Int'l Educ. & Res. J. 1 (Jan. 2023), https://ierj.in/journal/index.php/ierj/article/view/2609/2633.

establish a distinctive perspective on peace and understanding human wisdom and moral life. Secondly, During the last 75 years, India has achieved significant scientific and technological advancements alongside educational improvements and good governance practices which have strengthened its worldwide status. Thirdly, unlike any other country, India is endowed with unique strengths, including its philosophical heritage, its demographic dividend and its democratic values—all of which are blessedly pertinent to today's global age of interdependence. This vision rests on the idea of blending tradition and modernity, welcoming all the benefits of technical and social advancements while preserving the cultural identity of India. The pride with which India holds this balance can be seen in the cultural concept of Vasudhaiva Kutumbakam, or "the world is one family," which promotes inclusivity, unity, and shared human values[79].

Though these are impressive goals, the rollout of NEP 2020 has not been one without it's fair share of controversy.

Critics argued that the government's proposal to let foreign universities build campuses in India had potential to undermine the broader intent of showcasing India as a self-reliant global leader in education. They worried that a growing foreign presence will further dilute the country's intellectual agency to produce and direct its own intellectual discourse. Proponents of this argumentative policy would argue that most contemporary universities in India and worldwide have already been colonized by Western theories and frameworks. Foreign institutions' presence within India will hardly change the ideological terrain of higher education. Many Indian universities are "domestic" only in location, as the curriculum and academic approaches in these institutions still heavily reflect and follow Western paradigms[80].

Supporters claim allowing foreign universities to find a home in India would be a tactical maneuver in securing India's foothold in education diplomacy sways across the world. If India is not prepared to allow the TNE space for international institutions, it will be hard-pressed to argue with other nations when it tries to convince them to allow Indian private universities to set up shop on their soil. Therefore, opening foreign

[79] Vinay Sahasrabuddhe, Vishwa Guru India: The Why and the How, New Indian Express (June 21, 2022), https://www.newindianexpress.com/opinions/2022/Jun/21/vishwa-guru-india-the-why-and-the-how-2468181.html.

[80] Rohit Krishna, Foreign Universities in India – An Analysis of Criticisms, Vivekananda Int'l Found. (May 19, 2023), https://www.vifindia.org/brief/2023/may/19/Foreign-Universities-in-India-An-Analysis-on-the-Criticisms

campuses would not only enhance the education of domestic students, but be a reciprocal step that allows India to grow as a global academic power. For better or worse, at its core, the ongoing debate is part of a larger fight to determine how deeply the world's largest democracy can root itself in a globalized world, preserving its rich history while playing an active role in its future as an education powerhouse.

MILESTONES IN THE ARRIVAL OF FOREIGN UNIVERSITIES IN INDIA

1. National University for Educational Planning and Administration (NUEPA) Study, 2005

This 2005 study conducted by the National University for Educational Planning and Administration (NUEPA) presented multiple critical perspectives on the current state and as well as potential future directions of higher education in India. It focused on the importance of matching the demand for higher education, which was represented by student enrollment, to the supply of educational institutions in a way that meets the nation's socioeconomic needs. The report highlighted worry about the growing trend of commercialization in higher education via international trade systems and advocated for regulatory measures to control this growth. Additionally, it advocated for mutual recognition of academic degrees among countries to facilitate academic and professional mobility. The report also proposed that the National Assessment and Accreditation Council (NAAC) be entrusted with the responsibility of evaluating the quality and credibility of foreign educational programs and institutions operating within India[81].

2. Central Advisory Board of Education (CABE) Report, 2005

Following the revival of the Central Advisory Board of Education (CABE) by the Government of India, various sub-committees were established to examine key policy areas within the education sector. One such committee, chaired by Shri Kanti Biswas, the then Education Minister of West Bengal, was assigned to explore the "Autonomy of Higher Education Institutions." The roles carried by the committee were recommending steps to ensure institutional autonomy, especially for institutions with the promise of greatness, and ways to ensure a mix of independence and responsibility through appropriate regulatory structures.

[81] Standing Committee on Human Resource Development, Report on The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010, PRS Legislative Research (2010), https://prsindia.org/files/bills_acts/bills_parliament/2010/Foreign_Universities_Bill__SCR.pdf.

Regarding transnational education, the committee recommended that foreign institutions offering programs in India must be accredited in their respective home countries and their degrees recognized as equivalent to those conferred on their primary campuses. In alignment with these recommendations, the Ministry of Human Resource Development (MHRD) issued a directive in September 2003 mandating that all foreign educational providers operating in India undergo quality assessment and accreditation by NAAC. A specialized committee within NAAC formulated a framework for international accreditation, under which accreditation was to be made compulsory for all foreign universities in India. The framework also required a complete disclosure of institutional credentials, including but not limited to infrastructure, pedagogy, fee structure, and faculty qualifications, with the ultimate aim being ensurance of transparency[82].

The committee's attention was also brought to the following recommendation made by the CABE Committee on Financing Higher and Technical Education:

"Foreign universities that enter India with a view to exploiting the situation and essentially to raise resources need to be prevented.[83] Tough and detailed regulations are required to enable only those foreign universities having high academic standard wishing to provide good quality education and not having commercial considerations as the main factor behind, to be able to use the provisions in World Trade Organisation (WTO) / General Agreement on Tariffs in Services (GATS) to enter the higher education sector in India".[84]

3. CNR Rao Committee, 2005

To further streamline the entry of foreign universities into India, the Ministry of Human Resource Development (HRD) constituted a high-level committee in January 2005, chaired by eminent scientist Dr. C.N.R. Rao, to examine policy issues related to this entry. The aim was to implement a strong regulatory framework to regulate foreign educational institutions, brought under the jurisdiction of the HRD Ministry which regulates education as one of its three key sectors[85].

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[82] Ministry of Educ., Gov't of India, Autonomy of Higher Educational Institutions in India (n.d.), https://www.education.gov.in/sites/upload_files/mhrd/files/document-reports/AutonomyHEI.pdf.

[83] Dep't-Related Parliamentary Standing Comm. on Hum. Res. Dev., The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010, Rajya Sabha, Rep. No. 244 (Aug. 2010), https://prsindia.org/files/bills_acts/bills_parliament/2010/Foreign_Universities_Bill__SCR.pdf.

[84] Id

[85] David, Solomon Arulraj, Bikas C. Sanyal, K.V. Leuven & Danny Wildemeersch, Engaging with Cross-Border Higher Education in India While Sustaining the Best Tradition of Indian Values (Jan. 2007),

The CNR Rao Committee's report, submitted later that year, set a precedent with its long and detailed recommendations for such drastic measures. In its original version, it laid down that any foreign university wanting to set up a base in India must only enter after taking prior approval from the concerned authorities. These institutions should only be permitted to operate in an initial sandbox phase, allowing them to be observed under the glow of a sandbox phase to determine ongoing operability and adherence to regulatory standards of soundness. Their future continued operation would be contingent upon receiving a positive review at the end of this initial probationary period. The committee proposed that the regulatory regime cover all forms of foreign partnership from franchising agreements, academic consortia, twinning arrangements, study centers and branch campuses. In order to not have a repeat of the last student crisis, the committee recommended harsh penalties including the forfeiture of their financial backers' security deposits to be imposed on any school that exits the market early, effectively leaving students in an educational limbo[86].

Further influenced by these recommendations, the Ministry of HRD began to draft a Cabinet Drafting Proposal to be introduced for legislation by the central government. As reported by Swaraj Thapa in the Financial Express (Aug 24, 2005), a ministerial panel was likely to meet this week to discuss the matter in view of the CNR Rao Committee's recommendations. Around the same time, The Indian Express wrote about how the HRD Ministry was contemplating withdrawing India's offer on education to the WTO, a step which would end the free and unwarranted entry of foreign universities. This change in regulation was intended to protect academic integrity of higher education and ensure that any foreign presence on Indian soil in the higher education space was regulated by a clear legislative and policy structure[87].

4. National Knowledge Commission Report, 2006–2009

The National Knowledge Commission (NKC) was jointly commissioned by Prime Minister Dr. Manmohan Singh on June 13, 2005, to act as a think-tank to enable India to enter and embed itself into rapidly-multiplying knowledge-based service industries and activities. Chaired by Sam Pitroda, the NKC was empowered to make recommendations to the Prime Minister's Office on core policy questions, such as

available at https://www.researchgate.net/publication/261107600_Engaging_with_Cross-Border_Higher_Education_in_India_while_Sustaining_the_Best_Tradition_of_Indian_Values.

[86] Ibid.

[87] Ibid.

educational policy reform, research infrastructure expansion, and intellectual property regime overhaul. It deepened our understanding of how technology can assist state DOTs in being more transparent and in making their bureaucratic workflows more efficient. In order to better catalyze the movement and speak to new audiences, the NKC launched its new official website in February 2006[88].

One of the Commission's most consequential policy moves was its backing of higher education privatization. It pushed for more aggressive expansion of private sector participation and promoted the entry of foreign educational institutions. The Commission observed that other professional fields like engineering, medicine and management had already experienced a considerable move toward private provision and advised to replicate this model to general university education. This meant promoting public-private partnerships and attracting private in investment the sector as a whole. It recommended creating a competitive system by allowing acclaimed foreign universities to function in India and facilitating the international opening of Indian universities[89].

5. Foreign Educational Institutions (Regulation of Entry and Operations, Maintenance of Quality and Prevention of Commercialisation) Bill, 2007

In 2007, following a long process of consultation and policy discussion, the Government of India moved to introduce legislation to allow for the regulated entry of foreign educational institutions into the Indian domestic higher education sector. the Foreign Educational Institutions (Regulation of Entry and Operations, Maintenance of Quality and Prevention of Commercialisation) Bill, 2007, approved by the Union Cabinet in February of that year and slated for introduction that March's Parliament session. These changes were meant to provide, in statute, a more transparent basis for ensuring that foreign institutions fulfilled well defined academic and administrative standards. This served students' best interests by protecting them from poor, unqualified, or even exploitative providers.[90]

Under the provisions of the bill, all foreign institutions intending to operate in India were to be accorded deemed university status, making them subject to the regulatory

[88] Ajay Gaur & Garvendra Singh, National Knowledge Commission: An Overview, 1 Res. J. Pharma., Bio. & Chem. Sci. 2 (2010), https://rjpbcs.com/pdf/Old%20files/68.pdf.

[89] Ibid.

[90] Bill on Foreign Education Providers to See Light of Day, The Economic Times (Dec. 2, 2008), https://m.economictimes.com/industry/services/education/bill-on-foreign-education-providers-to-see-light-of-day/articleshow/3593282.cms

oversight of the University Grants Commission (UGC). In order to prove financial sincerity and long-term engagement, foreign providers had to establish a corpus fund of at least 10 crore rupees. These institutions were also required to obtain a certificate of validation from the Indian Embassy or High Commission based in their country of origin, thereby creating and documenting legitimacy and accountability prior to opening branch campuses in India[91].

6. 11th Planning Commission Report (2007–2012)

The Steering Committee on Science and Technology under the Eleventh Five-Year Plan (2007–2012) emphasized the need for promoting international collaboration in science and technology. Key recommendations included the following –

"It was also felt that in several of the cross-disciplinary technology areas, collaborative venture with Scientists and Technologists of Indian origin Abroad, and foreign institutions of repute should be actively encouraged.[92] This will pave the way for crucial inputs both by way of science and technology and work practices that will help us to leap frog in the development of science based technologies.[93] The identification of the collaborating scientists and institutions will be carried out when the detailed proposals are submitted".[94]

7. Yashpal Committee, 2009

Initially constituted to evaluate the functioning of higher education regulatory bodies such as the University Grants Commission (UGC) and the All India Council for Technical Education (AICTE), the Yashpal Committee was subsequently entrusted with a broader mandate encompassing the renovation and rejuvenation of the entire higher education system. In its final report, the committee presented a sophisticated view on permitting foreign universities into India[95].

With regard to foreign universities, the report stated the following:

One has to keep in mind the fact that universities grow in organic connection with their social, cultural and geographical surroundings and even the best of them cannot be transplanted somewhere else and expected to do as well. A university is known not only

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[91] Ibid.

[92] Ministry of Sci. & Tech., Gov't of India, Report of the Steering Committee on Science and Technology for Eleventh Five Year Plan (2007–2012), https://dst.gov.in/sites/default/files/rep-s-t.pdf.

[93] Id

[94] Id

[95] Policies of Higher Education in India: NKC vs. Yashpal Committee, 10 Int'l J. Sci. & Eng'g Res. 7 (July 2019), https://www.ijser.org/researchpaper/Policies-of-Higher-Education-in-India-NKC-Vs-Yashpal-Committee.pdf.

for its courses, it is the physicality of it, which gives it a unique character. As has been rightly said, education is a touch-sport. Before taking any decision on allowing foreign universities to operate in India we have to be very clear about the purpose it is going is achieve. Don't we want the best learning experiences to be shared by our students? If so, can this not be done by opening our doors to foreign scholars and making our rules more flexible? Interaction with the best minds of the world would only enhance the quality of our universities. But giving an open license to all and sundry carrying a foreign ownership tag to function like universities in India, most of them not even known in their own countries, would only help them earn profit for their parent institutions located outside or accrue profit to the shareholders. If the best of foreign universities, say amongst the top 200 in the world, want to come here and work, they should be welcomed. Any decision in this regard has to be taken with utmost care keeping in mind the features, which are essential for an institution to be called a University. Such institutions should give an Indian Degree and be subject to all rules and regulations that would apply to any Indian University.[96]

8. National University for Educational Planning and Administration (NUEPA) Study, 2009

The 2009 consultative meeting of the National University of Educational Planning and Administration (NUEPA) conducted an in-depth evaluation of the potential effects from foreign universities operating in India. The research found no evidence to suggest that foreign universities in India would decrease the number of Indian students studying abroad. It also pointed out that the cost of pursuing academic programs offered by foreign institutions in India may not be lower than the cost of similar programs delivered at their home campuses abroad. Furthermore, the report cautioned against assuming that foreign universities inherently provide superior quality education. inherently provide superior quality education. It was also highlighted that many of these institutions might not adopt a traditional campus-based model but would instead offer collaborative programs that involve high fees for curriculum development, instructional services, and academic support. The report expressed skepticism regarding the willingness of most foreign universities to establish full-fledged physical campuses in India[97].

[96] Dr. Muralikrishnan, A Concept of Borderless Higher Education: Coronation of Neo-Capitalist Values, 17 Academe 1 (Jan. 2014), https://www.hpuniv.ac.in/upload/uploadfiles/files/12.pdf.
[97] Ibid.

9. FICCI Summit, 2009

During the Federation of Indian Chambers of Commerce and Industry (FICCI) summit held in November 2009, significant emphasis was placed on the need to facilitate the entry of both Indian and international higher education institutions. The summit witnessed participation from countries such as the United States, India's partner nation for the event, and Scotland, represented by Scottish Development International. Among the primary proposals made was the execution of academic changes aimed at attracting international students, including the establishment of credit transfer agreements between Indian and overseas universities. The summit also urged for the selective inclusion of high-quality international universities into the Indian education system. In support of this initiative, a FICCI delegation consisting of representatives from private Indian universities such as Manipal University, BITS Pilani, Thapar University, Delhi Technological University, and Symbiosis International University undertook visits to globally prestigious institutions, including Yale, Harvard, MIT, and Georgetown University. Additionally, the summit signaled the impending introduction of the Foreign Education Provider Bill[98].

10. Foreign Educational Institutions (Regulation of Entry and Operation) Bill, 2010

The Foreign Educational Institutions (Regulation of Entry and Operation) Bill, 2010, commonly referred to as the Foreign Educational Bill represented a significant policy initiative aimed at establishing a regulatory framework for the entry and operation of foreign higher education providers in India. Introduced in the Lok Sabha in May 2010, the bill was later referred to a Parliamentary Standing Committee, which submitted its report in May 2011. Although the bill was approved in principle by the government, it remained pending in Parliament, with delays reportedly influenced by resistance from domestic private education providers[99].

The bill sought to regulate foreign educational institutions intending to offer higher education in India. The 237th report of the Standing Committee on Human Resource Development, chaired by Shri Oscar Fernandes, endorsed the bill with several recommendations. The bill applied to all institutions, including those offering medical

[98] FICCI, International Summit on Higher Education, https://ficci.in/public/storage/events/20009/ISP/harsh.pdf

[99] Dinesh Kumar & Dr. Manmohan Rahul, Challenges for Foreign Education Institutions in India, 2 Int'l J. Mgmt. & Com. Innovations 151, 151–59 (2014–2015), https://www.researchpublish.com/papers/challenges-for-foreign-education-institutions-in-india.

education, and called for safeguards to protect students and other stakeholders. Recommendations from the CNR Rao Committee were taken into account, suggesting phased approval processes based on performance, accreditation requirements in home countries, discouragement of offshore or franchise models, and safeguards against faculty poaching. The committee suggested that a thorough review of global practices would be beneficial along with implementing qualitative admission parameters that include invitation requirements and compulsory accreditation. The committee proposed the establishment of a separate regulatory agency to supervise curriculum standards alongside fee structures and faculty hiring and salary norms. The committee put forward recommendations regarding tuition fee regulations and refund mechanisms. The committee also expressed apprehensions about central government powers which enable specific institutions to bypass regulatory compliance requirements since this practice might create discriminatory results. The committee suggested that AICTE and MCI should be incorporated into regulatory definitions. The committee also suggested that foreign institutions adhere to reservation policies applicable to Indian private institutions. In view of the risk of marginalizing basic sciences and humanities, the report advised a needs-based assessment of courses offered by foreign institutions and urged the Ministry to conduct a survey on seat availability across disciplines. The committee further rejected the proposal to exempt foreign institutions from registration if they deliver certificate programs because it could negatively impact student welfare. The committee proposed that these providers should acquire registration and regulatory oversight. The report demanded complete disclosure of twinning program information together with more lenient corpus fund conditions for educational institutions that deliver such programs. It also proposed the inclusion of a provision to prohibit courses that could compromise India's sovereignty and territorial integrity[100].

The bill had a provision that stopped foreign institutions from sending back extra money yet the committee members proposed new benefits to promote domestic investment. The UGC provisions which allow institutional recognition withdrawal faced criticism because stakeholders were not given a chance to participate in the decision-making.

[100] Standing Committee on Human Resource Development, 237th Report on the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010, Rajya Sabha (Aug. 1, 2011), https://prsindia.org/files/bills_acts/bills_parliament/2010/Foreign_Educational_Institutions_Bill_Standing_Committee_Report_Summary.pdf

The report recommended the implementation of equal penalties for Indian as well as foreign institutions[101].

During the bill's discussion three main perspectives emerged: critics worried about increasing commercialization which would restrict access while proponents believed the bill would boost student selection options along with sector competitiveness and experts backed an approach which focused on reputation. The bill established guidelines for international and domestic institution collaboration yet it remained uncertain if leading worldwide universities would partake because of the strict regulatory requirements. The lack of clarity about exemption criteria alongside the exact enforcement requirements for foreign institutions created significant points of concern among stakeholders[102].

11. Twelfth Planning Commission (2012–2017)

The Twelfth Five-Year Plan made extensive efforts to improve enrollment figures in Higher Education Institutions (HEIs) through affordable education solutions. The plan recognized three major obstacles to its enrollment expansion goal which consisted of faculty shortages as well as inadequate infrastructure and outdated curricula. The plan acknowledged that Indian universities failed to integrate modern technology properly because of their outdated research infrastructure and educational quality. The current situation prevents Indian institutions from achieving global recognition since no Indian university holds a position in the top 200 worldwide[103].

The Planning Commission developed a set of reform initiatives to tackle the identified problems. The plan recommended the formation of research partnerships with leading foreign universities and global scientific organizations for collaborative research in common scientific fields. The plan also emphasized the need to promote the internationalization of higher education by encouraging Indian institutions and faculty to engage with their global counterparts in teaching, learning, research, and outreach activities[104].

12. T.S.R. Subramanian Committee, 2016

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[101] Ibid.

[102] The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010, PRS Legislative Research, https://prsindia.org/billtrack/the-foreign-educational-institutions-regulation-of-entry-and-operations-bill-2010

[103] Amar Upadhyaya, An Analysis of the Approaches of 12th Five Year Plan Towards the Development of Higher Education in India, 3 Soc. Sci. J. Gargaon Coll. (Jan. 2015), https://gargaoncollege.ac.in/pdf/publications/1/pub_more/37.pdf

[104] Planning Commission, Twelfth Five Year Plan (2012–2017) - Volume I, NITI Aayog (2013), https://www.niti.gov.in/sites/default/files/2023-08/12fyp_vol1.pdf.

The T.S.R. Subramanian Committee received its establishment in 2016 to produce an all-encompassing education policy for India. The committee released its recommendations in May 2016 to address educational system improvement along with student inclusion for the Indian education system which serves more than 300 million students. The significant proposal among the 95 recommendations called for permitting the top 200 foreign universities to establish Indian campuses. These colleges would be permitted to grant academic degrees similar to those offered at their parent institutions' home countries. The measure was intended to improve the quality and diversity of Indian higher education by allowing academically credible foreign institutions to set up campuses within the Indian subcontinent[105].

13. NITI Aayog, 2016

The NITI Aayog, in their 2016 report, supported the entry of foreign universities into India, with their primary reason for the same being the potential of such universities to meet the growing demand for higher education, enhance competition, and elevate academic standards. The report proposed three distinct pathways to facilitate this process[106]. The first involves establishing foreign universities within India under a newly developed regulatory framework[107]. The second proposes amending the University Grants Commission (UGC) Act of 1956 and related regulations to enable foreign universities to function as deemed universities. The third approach recommends modifying UGC and AICTE regulations to encourage joint ventures between Indian and foreign educational institutions, particularly through collaborative and twinning programs.

14. Kasturirangan Committee on New Education Policy, 2017

Following criticism of the T.S.R. Subramanian Committee's recommendations and internal disagreements with the then Human Resource Development Minister, Smriti Irani, the Union Government appointed a new committee in July 2017, chaired by space scientist K. Kasturirangan. The committee had the responsibility of creating a fresh educational policy to update the Indian educational framework while increasing standards and driving internationalization. The committee recommended a structured

[105] TSR Subramanian Committee Report Highlights, EducationWorld (Mar. 29, 2025, 5:30 PM), https://www.educationworld.in/tsr-subramanian-committee-report-highlights/

[106] NITI Aayog, Annual Report 2019-20, https://www.niti.gov.in/sites/default/files/2020-02/Annual_Report_2019-20.pdf

[107] Foreign University Campuses in India, India Today (Apr. 16, 2016), https://www.indiatoday.in/education-today/news/story/foreign-university-campuses-in-india-318327-2016-04-16.

approach to enable foreign universities to establish operations within the Indian higher education sector[108].

15. National Education Policy, 2019

The 2019 National Education Policy highlighted global educational connections as essential tools to develop national and worldwide competition. The policy aimed to transform educational systems by enhancing curricula design implementing advanced teaching techniques and modern assessment strategies to create graduates who can succeed in global markets. The policy encouraged international institutional partnerships through twinning arrangements and dual degree programs. The policy suggested that universities simplify their visa applications for foreign students and researchers while providing temporary work placements for graduates and enabling staff and student mobility. The Indian government introduced the idea of establishing the Global Initiative of Academic Networks which would work through international research partnerships and overseas campuses and a coordinating central inter-university educational facility to enhance global educational influence in India[109].

16. NITI Aayog Report, 2019

A 2019 report by NITI Aayog echoed the sentiment of an urgent need for radical overhauls in higher education ecosystems, with their key recommendation being geared around the creation of a regulatory framework that would enable leading international universities to set up campuses in the country. Taking this plan forward was an extremely important step for raising the international profile and academic quality of Indian colleges and universities[110].

17. National Education Policy, 2020

The National Education Policy of 2020 was brought about with an aim to revolutionize Indian education through cultural heritage alignment and global knowledge economy preparation for students[111]. The policy set the goal to increase Gross Enrollment Ratio

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[108] Challoju Jyothsna, Need for a New Education Policy: Higher Education in India – Challenges, Issues and Opportunities,https://gdctg.cgg.gov.in/PreviewPage.do?fileName=Uploads/files/buttonDetails/85555.pdf&filePath=BASE_PATH

[109] Sreeramana Aithal & Shubhrajyotsna Aithal, Analysis of Higher Education in Indian National Education Policy Proposal 2019 and Its Implementation Challenges, SSRN Electronic Journal (Jan. 2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3417517.

[110] NITI Aayog, Annual Report 2019-20, https://www.niti.gov.in/sites/default/files/2020-02/Annual_Report_2019-20.pdf.

[111] Dr. Abhay Kumar, Importance of National Education Policy-2020 in Imparting Education, 6 J. Positive Sch. Psychol. 2 (2022), https://journalppw.com/index.php/jpsp/article/view/12750

(GER) in schools to 50% and in higher education to 20% by 2030. The policy required major changes to the education system which included increased student enrollment from abroad and support for students who study abroad along with the establishment of top-tier research partnerships. The policy proposed internationalized curricula in diverse fields, improved residential and academic facilities, and the establishment of International Students Offices in higher education institutions. It also envisioned high-performing Indian universities setting up campuses abroad and enabling top-ranked foreign universities, particularly from the global top 100, to operate in India under a new legislative and regulatory framework[112].

18. UGC Regulations on Foreign University Campuses, 2023

The University Grants Commission (UGC) implemented specific guidelines in 2023 that authorized foreign universities to establish campus facilities in India. The National Education Policy inspires the regulations which establish standards for Indian campuses to equal their parent institutions' quality of education. Eligibility is restricted to foreign universities ranked within the top 500 globally, either overall or in specific subject areas. Applicants must also comply with the Foreign Contribution (Regulation) Act, 2010 (FCRA) and other applicable laws if they intend to receive or use foreign contributions. The guidelines prohibit foreign institutions from establishing study centers, franchises, or promotional offices, and prior UGC approval is required for launching new programs. Distance and online learning are not permitted except for up to 10% of the curriculum. Multiple campuses may be established, but each requires a separate application. Collaborative ventures between qualifying foreign universities are also allowed[113]

19. IFSCA Regulations on International Branch Campuses, 2022

IFSCA implemented 2022 regulations which aimed to draw foreign universities to create international branch campuses and offshore education centers in GIFT City, Gujarat. According to the regulations, the highest 500 universities in the QS World University Rankings can establish operations in GIFT City while retaining the option to transfer their earned profits. All institutions wishing to participate in the program were required to provide adequate academic infrastructure and amenities. The

[112] Ministry of Education, Govt. of India, National Education Policy 2020, https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf

[113] UGC Announces Regulations for Establishing Foreign University Campuses in India, The Hindu (Jan. 5, 2023), https://www.thehindu.com/news/national/ugc-announces-regulations-for-establish

academic program includes financial management, FinTech, and STEM subjects that reflect GIFT City's strategic aims.

20. 18th FICCI Higher Education Summit, 2023

During the 18th edition of the FICCI Higher Education Summit in 2023, BVR Subrahmanyam articulated India's ambition to evolve into a global hub for education. He highlighted that NITI Aayog is preparing a vision document for 2047, in which education plays a central role. A prominent goal within this vision is to attract 500,000 international students to India by the year 2047, positioning the country as a preferred international education destination. The aim is to position India as a global education provider by enhancing the quality of education, strengthening brand value, and improving internationally recognized[114]

[114] India Aiming for Half a Million Foreign Students by 2047: NITI Aayog CEO, NDTV, https://www.ndtv.com/india-news/india-aiming-for-half-a-million-foreign-students-by-2047-niti-aayog-ceo-4617825/amp/1.

CHAPTER 4
ANALYSIS OF INTERNATIONAL AND NATIONAL REGULATORY FRAMEWORKS

"No country in the world uses such a complex process to assess institutions, which is essential,"

- ***Jagannath Patil (NAAC Advisor)*** *to the TIMES OF INDIA, emphasizing that NAAC is not merely an assessment agency but has a mandate to improve the higher education system.*

INTRODUCTION

According to data compiled by the Cross-Border Education Research Team (C-BERT), there are approximately 333 International Branch Campuses (IBCs) currently operating worldwide, with around 58 having ceased operations till date[115]. A notable trend among mature and successful IBCs is their prioritisation of educational quality over revenue generation. Studies involving interviews with representatives from these established IBCs consistently showed the following trends - that close and positive collaboration with regulatory authorities in both, the home and host countries was a key part of their operational model, and many of these IBCs regarded the employability of their graduates as a principal metric of success[116].

The arrival of foreign universities in India should not be opposed if the same is done with the intent of developing educational and cultural exchanges between nations, which has been a tradition that was historically encouraged by Indian leaders such as Mahatma Gandhi and Rabindranath Tagore. The exchange of knowledge has been a vital feature of its engagement with the world throughout the history of India[117].

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[115] Cross-Border Education Research Team, C-BERT International Campus Listing (Mar. 2023), https://www.cbert.org/intl-campus.

[116] Jason Lane & Rachael H. Merola, International Branch Campuses: Success Factors of Mature IBCs, C-BERT (Dec. 2017),https://www.researchgate.net/publication/368396768_International_Branch_Campuses_Success_Factors_of_Mature_IBCs.

[117] All India Forum for Right to Education (AIFRTE), Mount Resistance Campaign Against WTO-GATS! Demand Immediate Withdrawal of 'Offer' of Higher Education for Trade Regulation Before It

However, current framework established by the World Trade Organization (WTO) has ensured that the reasons behind which foreign universities seek to enter India has considerably changed. Cross-Border education is now classified as a tradable service under current WTO regime, thereby making the primary incentive out to be profit making, rather than the dissemination of knowledge. More importantly, the WTO framework does not mandate that only high-quality, well-established institutions expand abroad. Any provider can establish a university — potentially even a substandard one — in its home country and subsequently set up branch campuses in foreign jurisdictions. Supporting this concern, an early World Bank survey documented that several prestigious universities from developed countries had established low-quality campuses in less developed nations[118]. Some studies state that there is a persistent chance that students will be exposed to subpar services and/or dishonest providers because many nations' systems are still not designed to handle the difficulties presented by cross-border education.[119] Therefore, there is a need for more national initiatives, improved international collaboration, and more open information on cross-border education and quality control.[120] Similarly, recent reports also state that most students in developing nations won't receive an education of the same standard as those in wealthy countries.[121]

A study based on data from C-BERT's International Campus Listing, the QS World University Rankings 2022, and the Times Higher Education World University Rankings 2022 further highlights the quality issue. The analysis revealed that only four universities ranked among the global top 25 have established branch campuses abroad. Of these, only the New York University (NYU) operates comprehensive international campuses offering education and research opportunities across multiple disciplines. The other three institutions maintain small branch campuses abroad which generally specialised only in a single field of study. As a result, this data suggests that the likelihood of leading global universities establishing full-fledged

Is Too Late! (Apr. 2014), https://sanhati.com/wp-content/uploads/2015/08/AIFRTE_WTO-Leaflet_Final_22april2014.pdf.

[118] *Ibid.*

[119] UNESCO Asia & Pac. Reg'l Bureau for Educ., UNESCO-APQN Toolkit: Regulating the Quality of Cross-Border Education (2006), https://unesdoc.unesco.org/ark:/48223/pf0000146428.

[120] *Ibid*

[121] Arul Kumaravelu & E.S.M. Suresh, The Quality of Education and Its Challenges in Developing Countries, Conference Paper, ASEE Int'l Forum, Columbus, Ohio (June 28, 2017), https://www.researchgate.net/publication/335972264_The_Quality_of_Education_and_its_Challenges_in_Developing_Countries.

campuses in India is minimal, and in the event that they choose to enter India, their presence may be limited to specialised centres offering professional courses to a restricted cohort of students[122].

In evaluating the quality of cross-border education initiatives, this reseaech adopts specific parameters drawn from UNESCO's guidelines for Quality Assurance in Cross-Border Higher Education. The focus areas include the recognition of qualifications, quality assurance mechanisms, and accreditation standards, which together form critical indicators of educational quality in transnational contexts.

THE SYNERGY BETWEEN ACCREDITATION, QUALITY ASSURANCE AND QUALIFICATIONS RECOGNITION

Accreditation and Recognition of Qualifications

Proper evaluation of a foreign qualification required a detailed consideration of the official status of the institution awarding the qualification and/or the programme taken. Thus, the credential evaluator must confirm that:

- the institution is authorised to award qualifications, which are accepted for academic and professional purposes in the home country, and/or
- the programme is accredited[123].

The recognition or accreditation levels that are accrued by an institution or a program serves as an indicator of the fact that such qualification meets an acceptable minimum standard of education within that particular country. Varying terms may be used to describe such statuses granted to such institutions or programmes, and the words "recognition" and "accreditation" are two of the most common terms used for the same. Although these terms are regularly used on an interchangeable basis, they represent distinct concepts[124].

[122] Sweety Supriya, Challenges and Concerns: Regulatory Reforms and Opening of Foreign Higher Educational Institutions in India, 12 J. Res. Hum. & Soc. Sci. 320, 320–25 (2024), https://www.questjournals.org/jrhss/papers/vol12-issue3/1203320325.pdf.
[123] European Network of Information Centres in the European Region & National Academic Recognition Information Centres in the European Union, Accreditation, Recognition & Quality Assurance, https://www.enic-naric.net/page-accreditation-recognition-quality-assurance
[124] *Ibid*.

Recognition refers to a formal status granted by national legislation. Institutions that meet the requirements prescribed under national laws and have been officially granted the authority to award degrees are considered recognised, although the exact specific term used may vary between countries[125].

Accreditation is a formal decision by a recognised and competent authority that has verified whether the institution and/or the programme meets the predefined minimum quality standards. Accreditation is generally a voluntary process and is granted for a specific number of years, after which the institution or programme has to request and undergo re-accreditation procedures. The differences in the way accreditation is applied in different countries may include government involvement and the extent to which the procedure is really voluntary. In most countries acceptance of the qualifications depends on whether the institution or/and the programme is accredited, so though it may be a voluntary process, there is in fact little choice. The level of governmental involvement and the extent to which such accreditations remain voluntary changes across nations[126].

Institutions must must initially obtain a permit or license to operate as educational entities, often granted for a provisional period pending a comprehensive review in certain nations. However, licensing is not the same as accreditation, neither does it require a demonstration of quality. An institution must undergo a separate accreditation process to gain the right to award officially recognised qualifications and, in some cases, to access public funding. Generally, qualifications awarded by recognised institutions are automatically deemed to be recognised. In systems where programme-based accreditation is practised, it becomes essential to verify the accreditation status of individual programmes separately. It is also possible for recognised institutions to offer programmes that are not themselves accredited, and vice versa, for non-recognised institutions to deliver accredited programmes. Credential evaluators must verify both the institutional and programme-level status of such awarding bodies. They must confirm whether the institution or programme is part of the official education system of the relevant country, and they are expected

[125] *Ibid.*
[126] *Ibid.*

to rely on the accreditation or quality assurance conducted by competent authorities as evidence of compliance with established minimum quality standards[127].

Quality Assurance

Quality assurance is another term used in the discussions of the recognition and accreditation of institutions and programmes. In the context of higher education, the term "Quality Assurance" includes the policies, procedures and practices that are designed to assess, improve and maintain the quality of higher education in an education system. Quality Assurance agencies are responsible for the external quality assurance of higher education, which checks the effectiveness of the internal quality assurance policies of the higher education institutions, who have their own internal quality assurance system in place[128].

THE RELEVANCE OF NATIONAL QUALITY FRAMEWORKS IN CROSS BORDER EDUCATION

The granting of permission to establish and operate a local branch of a foreign educational institution must be subject to the fulfilment of specific conditions. Multiple governments have adopted policies stating that only foreign institutions which are accredited in their home countries are eligible to open branch campuses within their borders. Host countries that import educational services now increasingly require that the foreign institution which seeks entry must first hold accreditation status in it's country of origin. In nations that allow the trade of education services, foreign institutions must systematically follow the formal approval procedures established by the relevant governmental authority, which is usually the Ministry of Education (MOE), prior to commencement of operations[129].

Such requirements of accreditation within their home nations serve as a critical safeguard against fraudulent practices. Historical experiences have demonstrated the requirement of such precautions. An example of this would be an instance when certain collaborative foreign institutions operating within Vietnam were exposed as fraudulent entities. As a result, many students and their families suffered major losses, in the form

[127] *Ibid.*
[128] *Ibid.*
[129] N.V. Varghese, GATS and Higher Education: The Need for Regulatory Policies, UNESCO (2006), https://unesdoc.unesco.org/ark:/48223/pf0000150689

of both financially, as well as in terms of academic years spent in these institutions. Along with an accreditation in the country of origin, a second layer of quality assurance involves requiring foreign institutions and their programmes to undergo accreditation by recognised agencies in the host country. This dual-layer accreditation framework aims to serve two purposes: the first being maintenance of quality standards in educational provisions, and the second being an ensurance of the fact that such qualifications awarded are officially recognised and valued. In some host countries, even domestic private institutions that enter into collaborative arrangements with foreign partners must first be accredited by national quality assurance bodies before such partnerships are approved. This is important, as branch campuses often do not perfectly replicate the academic environment, teaching methods, or assessment procedures of their parent institutions. As a result, degrees awarded by these branch campuses may lack formal recognition, if they were issued without proper accreditation in the first place[130].

The UNESCO Guidelines for Quality Provision in Cross-Border Higher Education further highlight the importance of developing reliable and effective national quality ensurance mechanisms to ensure the quality of cross-border educational offerings. These guidelines highlight the need for stringent mechanisms to protect students and uphold academic standards in an increasingly globalised education market. According to the guidelines it is stated that:

"The quality of a country's higher education sector and its assessment and monitoring is not only key to its social and economic well-being, it is also a determining factor affecting the status of that higher education system at the international level. The establishment of quality assurance systems has become a necessity, not only for monitoring quality in higher education delivered within the country, but also for engaging in delivery of higher education internationally. As a consequence, there has been an impressive rise in the number of quality assurance and accreditation bodies for higher education in the past two decades. However, existing national quality assurance capacity often focuses exclusively on domestic delivery by domestic institutions. The increased cross-border mobility of students, academic staff, professionals, programmes and providers presents challenges for

[130] *Ibid.*

existing national quality assurance and accreditation frameworks and bodies as well as for the systems for recognizing foreign qualifications.

(a) National capacity for quality assurance and accreditation often does not cover cross-border higher education. This increases the risk of students falling victim to misleading guidance and information and disreputable providers, dubious quality assurance and accreditation bodies and low-quality provision, leading to qualifications of limited validity;

(b) National systems and bodies for the recognition of qualifications may have limited knowledge and experience in dealing with cross-border higher education. In some cases, the challenge becomes more complicated as cross-border higher education providers may deliver qualifications that are not of comparable quality to those which they offer in their home country;

(c) The increasing need to obtain national recognition of foreign qualifications has posed challenges to national recognition bodies. This in turn, at times, leads to administrative and legal problems for the individuals concerned;

(d) The professions depend on trustworthy, high-quality qualifications. It is essential that users of professional services including employers have full confidence in the skills of qualified professionals. The increasing possibility of obtaining low-quality qualifications could harm the professions themselves, and might in the long run undermine confidence in professional qualifications[131]*. "*

QUALITY ASSURANCE AND ACCREDITATION - AN ANALYSIS OF INTERNATIONAL AND NATIONAL FRAMEWORKS

❖ INTERNATIONAL FRAMEWORKS

•<u>UNESCO guidelines on Quality Assurance</u>

With respect to Quality Assurance, the UNESCO has provided following recommendations:

(a) Ensure that their quality assurance and accreditation arrangements include cross-border education provision in its various modes. This can mean giving

[131] UNESCO & OECD, Guidelines for Quality Provision in Cross-Border Higher Education (2005), https://unesdoc.unesco.org/ark:/48223/pf0000143349.

attention to assessment guidelines, ensuring that standards and processes are transparent, consistent and appropriate to take account of the shape and scope of the national higher education system, and adaptability to changes and developments in cross-border provision;

(b) Sustain and strengthen the existing regional and international networks or establish regional networks in regions that do not already have one. These networks can serve as platforms to exchange information and good practice, disseminate knowledge, increase the understanding of international developments and challenges as well as to improve the professional expertise of their staff and quality assessors. These networks could also be used to improve awareness of disreputable providers and dubious quality assurance and accreditation bodies, and to develop monitoring and reporting systems that can lead to their identification;

(c) Establish links to strengthen the collaboration between the bodies of the sending country and the receiving country and enhance the mutual understanding of different systems of quality assurance and accreditation. This may facilitate the process of assuring the quality of programmes delivered across borders and institutions operating across borders while respecting the quality assurance and accreditation systems of the receiving countries;

(d) Provide accurate and easily accessible information on the assessment standards, procedures, and effects of the quality assurance mechanisms on the funding of students, institutions or programmes where applicable as well as the results of the assessment. Quality assurance and accreditation bodies should collaborate with other actors, especially higher education institutions/providers, academic staff, student bodies and academic recognition bodies to facilitate the dissemination of such information;

(e) Apply the principles reflected in current international documents on cross-border higher education such as the UNESCO/Council of Europe 'Code of Good Practice in the Provision of Transnational Education';

(f) Reach mutual recognition agreements with other bodies on the basis of trust in and understanding of each other's professional practice, develop systems of internal quality assurance and regularly undergo external evaluations, making full use of competencies of stakeholders. Where feasible, consider undertaking experiments in

international evaluation or peer reviews of quality assurance and accreditation bodies;

(g) Consider adoption of procedures for the international composition of peer review panels, international benchmarking of standards, criteria and assessment procedures and undertake joint assessment projects to increase the comparability of evaluation activities of different quality assurance and accreditation bodies[132].

- **Relevant International Quality Assurance Frameworks**

1. INQAAHE

INQAAHE (The International Network for Quality Assurance Agencies in Higher Education) is a global association of over 300 members focused on quality assurance (QA) in higher education. Established in 1991, it includes full members (QA providers), associate members (interested organizations), and affiliate members (individuals). As tertiary education has evolved through distance learning, vocational focus, and globalisation, QA providers' roles have expanded.[133]

INQAAHE serves as a professional community and international forum for sharing best practices, addressing challenges like cross-border education, and advancing the theory and practice of QA. Its mission is to promote excellence in tertiary education by supporting collaboration, exchanging information, and strengthening QA mechanisms for the benefit of institutions, students, and society.[134]

2. APQN

The Asia-Pacific Quality Network (APQN) was established in 2003, and is a non-governmental, non-profit organisation that is dedicated to the enhancement of quality in higher education across the Asia-Pacific region. Guided by its mission of "Enhancing the Quality of Higher Education in the Asia-Pacific Region" and "Dissolving Boundaries for a Quality Region," the APQN has truly grown into the largest and most influential international body in this field within the region over it's 19 years of development. Currently, the APQN includes 253 members that represent 45 countries and territories. The Network has played a critical and distinctive role in

[132] *Ibid.*
[133] International Network for Quality Assurance Agencies in Higher Education, Mission, Values and Purposes, INQAAHE, https://www.inqaahe.org/about-us/mission-values-and-purposes/
[134] *Ibid*

advancing quality assurance (QA) mechanisms, facilitating the exchange of theoretical and practical knowledge, and building substantive cooperation among its members. The APQN has also established key initiatives such as the Consultant Bank, and has taken on responsibilities for the review and maintenance of the Asia-Pacific Quality Register (APQR) and the Asia-Pacific Quality Label (APQL), thereby making major contributions towards the strengthening of quality standards and practices in the higher education landscape of this region[135].

3. ENQA

The European Association for Quality Assurance in Higher Education (ENQA) was initially established in 2000 as the European Network for Quality Assurance in Higher Education, with an objective of promoting European cooperation in the field of quality assurance (QA) within higher education. In 2004, the organisation transitioned into its current form, which is the European Association for Quality Assurance in Higher Education, and they did so with an expanded mandate to contribute to the maintenance and enhancement of the quality of European higher education, and to serve as a major driving force for the development of quality assurance practices across all signatory countries to the Bologna process. As the officially designated stakeholder organisation for quality assurance agencies within the European Higher Education Area (EHEA), ENQA plays a crucial role in representing the interests of QA agencies on the international stage, supporting them at the national level, and offers a wide range of services and networking opportunities[136].

Through its collective structure, ENQA brings in innovation in quality assurance methodologies and continuously refines external QA processes. Its activities are organised around three principal goals:

- Representing the interests of quality assurance agencies;
- Providing services to its members and other relevant stakeholders;

[135] Asia-Pacific Quality Network, Council for Higher Education Accreditation, https://www.chea.org/international-directory/asia-pacific-quality-network

[136] European Association for Quality Assurance in Higher Education, About ENQA, https://www.enqa.eu/about-enqa/

- Driving the development and evolution of external quality assurance practices[137].

4. QAA

The Quality Assurance Agency for Higher Education (QAA) is an independent charitable organisation recognised as one among the leading authorities in the field of quality assurance in higher education on an international level. The QAA collaborates with governments, agencies, and educational institutions across the globe to improve the quality and international reputation of higher education within the UK. The activities of the agency are aligned with its core mission to safeguard academic standards and enhance the quality of UK higher education, irrespective of where it is delivered. Through its detailed quality assurance processes, the QAA ensures that students, both domestic and international, benefit from a consistent and high standard of educational experience[138].

❖ NATIONAL FRAMEWORKS

National Assessment and Accreditation Council (NAAC)

India is home to one of the world's largest education systems. The nation has witnessed an exponential growth of the samein both quantitative and qualitative terms, via means of aggressive expansion and privatization, increased institutional autonomy, and an introduction of programmes based on emerging fields. Such developments have indeed enhanced access to higher education, however, it has also raised concerns regarding the quality and relevance of academic offerings. In response to these concerns, the National Policy on Education (NPE, 1986) and the Programme of Action (PoA, 1992) proposed the establishment of an independent national accreditation body. Consequently, the National Assessment and Accreditation Council (NAAC) was founded in 1994 as an autonomous institution under the University Grants Commission (UGC), headquartered in Bengaluru. NAAC's core mandate is to integrate quality assurance into the functioning of Higher Education Institutions (HEIs)[139].

[137] *Ibid.*
[138] Quality Assurance Agency for Higher Education, About Us, https://www.qaa.ac.uk/about-us#
[139] National Assessment and Accreditation Council, https://www.naac.gov.in/index.php/en/

The UGC also launched the 'Paramarsh' scheme with an aim to expand the number of NAAC-accredited institutions within the nation, and thereby enhance the overall quality of the education system by supporting HEIs in achieving a minimum NAAC accreditation score of 2.5 out of 4.0 by 2022. Under this scheme, high-performing HEIs are designated as mentor institutions tasked with guiding less-accredited or non-accredited institutions towards successful accreditation[140].

Relevance Of NAAC In Transnational Education

Although NAAC does not yet accredit offshore campuses[141], the researcher finds that NAAC has certain advantages that are consistent with the UNESCO guidelines on cross border education.

The NAAC's methodology for assessment and accreditation aligns closely with global quality assurance (QA) practices, wherein they combine institutional self-assessment with a peer review from external sources[142].

NAAC-accredited institutions are recognized as meeting rigorous educational standards, which thereby enhances the international credibility of their qualifications. As a result, graduates from such NAAC-accredited institutions are better positioned for admission into leading global universities and for employment in competitive international markets[143].

NAAC accreditation therefore serves as a hallmark of quality, and the same is acknowledged by globally respected universities and academic bodies. NAAC has also contributed to the development of global guidelines on the quality assurance of cross-border education, working closely with international bodies such as UNESCO and the International Network of Quality Assurance Agencies in Higher Education (INQAAHE). Through these contributions, NAAC continues to contextualize and

[140] Univ. Grants Comm'n, Quality Mandate for Higher Education Institutions in India (Feb. 2021), https://www.ugc.gov.in/e-book/Quality%20Mandate%20E-BOOK.pdf.

[141] National Assessment & Accreditation Council, http://naac.gov.in/index.php/en/assessment-accreditation

[142] NAAC, Revised Accreditation Manual for Universities, NAAC (December,2019), http://www.naac.gov.in/images/docs/Manuals/Revised-University-Manual.pdf

[143] NAAC Accreditation Boosts Graduates' Global Recognition and Employability, IIBS News (Aug. 17, 2023), https://www.iibs.edu.in/news/naac-accreditation-boosts-graduates-global-recognition-and-employability-1359#:~:text=Recognition%20by%20International%20Universities:%20Globally,international%20universities%20for%20further%20studies

implement international quality frameworks within the Indian higher education system[144].

NAAC maintains several strategic international partnerships aimed at mutual recognition of quality assurance processes and fostering global academic mobility. Key collaborations include the Commonwealth of Learning (COL), the Higher Education Quality Committee (HEQC) of the Council on Higher Education (CHE) in South Africa, the Australian Universities Quality Agency (AUQA), the Quality Assurance Agency for Higher Education (QAA) in the United Kingdom, the University Grants Commission (UGC) in Nepal, the Higher Education Evaluation and Accreditation Council of Taiwan (HEEACT), the British Council / Higher Education Funding Council for England (HEFCE) in the UK, UNESCO, IEEE, INQAAHE, and the Asia-Pacific Quality Network (APQN). These collaborations facilitate mutual recognition of QA agencies across countries, which in turn supports degree recognition, equivalence of courses, credit transfer, student mobility, and streamlined fee and intake structures[145].

Beyond bilateral collaborations, NAAC participates in major international quality assurance projects. These include the Joint Programmes: Quality Assurance and Recognition of Degrees Awarded (JOQAR) in association with the European Consortium for Accreditation in Higher Education (ECA), the Global Research Benchmarking System for Universities in collaboration with the United Nations University International Institute of Software Technology (UNU-IIST), the Mutual Recognition of Accreditation with the Asia-Pacific Quality Network (APQN), and the Mutual Recognition of Quality Assurance Decisions, which explores synergies between Australian and Indian higher education systems. Through these initiatives, NAAC continues to enhance the global integration and acceptance of India's higher education quality assurance mechanisms[146].

However, one of the core problems researchers have found about NAAC is that it only gives institutional accreditation but doesn't provide programme accreditation.

Supreme Court cases on the relevance of NAAC

[144] M. S. Shyamasundar, Assuring the Quality of Collaborative Provision of Transnational Higher Education, Nat'l Assessment & Accreditation Council (NAAC), Bangalore, India, https://www.inqaahe.org/wp-content/uploads/2024/08/36.pdf

[145] *Ibid.*

[146] NAAC, Collaborations, http://naac.gov.in/index.php/en/about-us/collaborations

1. Swami Vivekanand College of Education & Others v. Union of India & Others[147]

In this case, Swami Vivekanand College of Education & Others v. Union of India & Others, the challenge was against Regulations 8(4) and 8(5) of the National Council for Teacher Education (NCTE) Regulations, 2007, which mandated that institutions must obtain accreditation from the National Assessment and Accreditation Council (NAAC) with at least a Letter Grade B for additional intake in B.Ed. and B.P.Ed. courses. The appellants contended that these regulations infringed upon their fundamental rights under Article 19(1)(g) of the Constitution, amounted to an impermissible sub-delegation of statutory functions, and had retrospective effect. The Supreme Court upheld the validity of the regulations, finding them consistent with the objectives of the NCTE Act, 1993, and necessary for maintaining quality standards in teacher education institutions, ultimately dismissing the appeal[148].

2. Adarsh Shiksha Mahavidyalaya & Ors vs Subhash Rahangdale & Ors[149]

In this case, Adarsh Shiksha Mahavidyalaya & Ors v. Subhash Rahangdale & Ors, the Supreme Court considered the role of NAAC accreditation in regulating the expansion of intake capacity at teacher training institutions. The Court reaffirmed that institutions wishing to increase their student intake, primarily in B.Ed. and B.P.Ed. programs must first obtain an accreditation from NAAC with a grade of B+ or above, as required under NCTE Regulations.

This requirement was described as mechanism to ensure that only institutions meeting specified quality standards are permitted to expand, thus safeguarding the overall quality of teacher education on a national level[150].

3. Supreme Court's Direction to NAAC on Accreditation of Deemed Universities (2015)

In this case, the Hon'ble Supreme Court ordered the NAAC to assess and finalize the accreditation statuses of the deemed universities within a specified time limit.

The Court further stated that that timely accreditation protects educational standards and emphasized that the pivotal role played by the NAAC ensured that deemed universities uphold quality benchmarks necessary to remain recognized and operational[151].

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[147] (2012) 1 SCC 642
[148] https://indiankanoon.org/doc/24300/
[149] (2012) 2 SCC 425
[150] https://indiankanoon.org/doc/9764150/
[151] SC Tells NAAC to Accredit Deemed Varsities, The Hindu (Sept. 9, 2015, 3:44 AM)

- **Higher Education Commission of India (HECI)**

The establishment of the Higher Education Commission of India (HECI) has faced significant delays, despite assurances provided by the Ministry of Education on the floor of the Parliament in 2019. As recorded in the Parliamentary panel on government assurances' report dated December 14, 2023, the ministry initially attributed the delay to the need to align the draft HECI Bill, 2019 with the recommendations outlined in the National Education Policy (NEP), 2020. However, even after redrafting, the Bill remains entangled in extended consultation processes, and the objective of instituting HECI remains unfulfilled more than three years later[152].

The HECI is envisaged to comprehensively restructure the regulatory framework governing higher education in India. It is intended to subsume and replace three existing bodies: the University Grants Commission (UGC), which regulates non-technical higher education; the All India Council for Technical Education (AICTE), responsible for technical education; and the National Council for Teacher Education (NCTE), which oversees teacher education programmes[153]. This consolidation aims to eliminate the current fragmentation of regulatory responsibilities and ensure greater coherence across the higher education sector.

In alignment with the NEP 2020, the HECI is designed to operate through four autonomous verticals, each dedicated to one of the essential functions of higher education governance: regulation, accreditation, funding, and academic standard-setting. This structural separation is intended to enhance professionalism and functional expertise within each domain,while minimizing the concentration of power that could otherwise lead to conflicts of interest or regulatory capture[154].

The four proposed verticals under the HECI are:

1. the National Higher Education Regulatory Council (NHERC), which will act as the sole regulatory authority for higher education institutions;
2. the National Accreditation Council (NAC), tasked with the accreditation of institutions and programmes;

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[152] Abhinay Lakshman, Existing Measures Effectively Address Caste Discrimination Concerns at Universities: NAAC, THE HINDU (Feb. 25, 2025, 9:44 PM), https://www.thehindu.com/education/existing-measures-effectively-address-caste-discrimination-concerns-at-universities-naac/article69263418.ece/amp/

[153] Higher Education Commission of India (HECI) Bill Misses Lok Sabha Bus Again, Econ. Times (Feb. 08, 2024), https://m.economictimes.com/news/india/higher-education-commission-of-india-heci-bill-misses-lok-sabha-bus-again/articleshow/107534565.cms

[154] Univ. Grants Comm'n, Quality Mandate for Higher Education Institutions in India (Feb. 2021), https://www.ugc.gov.in/e-book/Quality%20Mandate%20E-BOOK.pdf

3. the Higher Education Grants Council (HEGC), responsible for disbursing funding and overseeing financial matters; and
4. the General Education Council (GEC), which will define academic standards, including framing the expected learning outcomes for various higher education programmes[155].

The HECI framework is expected to extend its regulatory oversight to foreign universities seeking to establish and operate campuses within India. The HECI seeks to create a transparent, accountable, and high-quality higher education ecosystem by bringing both domestic and foreign institutions under a unified regulatory ambit[156].

RECOGNITION / EQUIVALENCE OF QUALIFICATION FRAMEWORKS- AN ANALYSIS OF INTERNATIONAL AND NATIONAL FRAMEWORKS

Difference between Recognition and Equivalence of Qualifications

Recognition and equivalence are related but very distinct concepts that are often used interchangeably, thereby making it important that we understand the difference between the same.

Recognition, also called formal equivalence, refers to accepting educational documents from one country as valid in another nation based on the level of education that such documents represent.

Real equivalency, on the other hand, entails a more thorough comparison of educational programs, course material, teaching strategies, and the general knowledge and abilities needed to obtain a certificate. It goes beyond merely validating paperwork. Although verifying the authenticity of documents is an essential first step, determining whether the expertise and credentials are actually similar is far more difficult. Real equivalency is difficult to achieve because of differences in educational systems, cultural backgrounds, and economic circumstances, even if formal equivalency is sometimes provided automatically in many nations. In science and technological disciplines, where standards and methodologies vary greatly, these challenges are even more noticeable. Full equivalence is difficult to achieve even within a nation, as universities vary in quality, reputation, and resources, leading some graduates to be more highly

[155] NEP 2020 and Foreign Universities: What to Expect in the Regulatory Domain?, Cyril Amarchand Blogs (Aug. 4, 2020), https://corporate.cyrilamarchandblogs.com/2020/08/national-education-policy-nep-2020-and-foreign-universities-what-to-expect-in-the-regulatory-domain/
[156] *Ibid.*

regarded than others despite following the same general system. In countries with federal structures, regional differences in education further complicate the effort to establish true equivalence[157].

Recognition of Qualifications Over Equivalence- A UNESCO Perspective

UNESCO prefers the recognition of qualifications over the equivalence of qualifications. Recognition involves a formal acknowledgment by a competent authority that a foreign qualification, partial study, or prior learning is valid and meets a certain academic level. Unlike equivalence, which seeks to determine whether a foreign qualification is essentially similar to a domestic one, recognition focuses on whether there are significant or substantial differences that would negatively affect the intended purposes. UNESCO encourages moving away from the equivalence-based approach because it tends to create unnecessary barriers and hinders the development of best practices in recognition[158].

❖ INTERNATIONAL FRAMEWORKS ON RECOGNITION OF QUALITIFICATIONS

With the growth in academic mobility, the increased movement of the labour force, and the push for greater professional mobility under frameworks like the GATS, there is a clear and urgent need for national education policymakers to focus on recognizing qualifications. The credibility of higher education programmes and qualifications is crucial not only for students but also for employers, the general public, and the academic community. It is essential that qualifications awarded by cross-border providers are legitimate and recognized for employment or further studies both domestically and internationally. This need presents a major challenge for national and international higher education sectors, especially as new cross-border providers and programmes continue to emerge[159].

UNESCO guidelines on Recognition

[157] Hanna Jabwnska-Skinder, International Recognition of Studies and Degrees: Challenges and Perspectives — Problems of Equivalence of Studies and Diplomas in Higher Education Systems, 13 Higher Educ. in Eur. 3 (1988), available at https://unesdoc.unesco.org/ark:/48223/pf0000082149

[158] UNESCO, A Practical Guide to Recognition: Implementing the Global Convention on the Recognition of Qualifications Concerning Higher Education (2020), https://unesdoc.unesco.org/ark:/48223/pf0000374905

[159] *Supra 118*

UNESCO, in its Guidelines for Quality Provision in Cross-Border Higher Education, provides recommendations for the recognition of academic bodies, where it is stated that:

The UNESCO regional conventions on recognition of qualifications are important instruments facilitating the fair recognition of higher education qualifications, including the assessment of foreign qualifications resulting from cross-border mobility of students, skilled professionals and cross-border provision of higher education. There is a need to build on existing initiatives with additional international action to facilitate fair processes of recognition of academic qualifications by making systems more transparent and comparable.

In this context, it is recommended that academic recognition bodies:

(a) Establish and maintain regional and international networks that can serve as platforms to exchange information and good practice, disseminate knowledge, increase the understanding of international developments and challenges andimprove the professional expertise of their staff;

(b) Strengthen their cooperation with quality assurance and accreditation bodies to facilitate the process of determining whether a qualification meets basic quality standards, as well as to engage in cross-border cooperation and networking with quality assurance and accreditation bodies. This cooperation should be pursued both at regional and cross-regionallevels;

(c) Establish and maintain contacts with all stakeholders to share the information and improve the links between academic and professional qualification assessment methodologies;

(d) Where appropriate, address the professional recognition of qualifications in the labour market and provide necessary information on professional recognition, both to those who have a foreign qualification and to employers.

Given the increasing scope of the international labour markets and growing professional mobility, collaboration andcoordination with professional associations are recommended for this purpose;

(e) Use codes of practice such as the Council of Europe/ UNESCO 'Recommendation on Criteria and Procedures for the Assessment of Foreign Qualifications' and other relevant codes of practice to increase the public's confidence in their recognition procedures, and to reassure stakeholders that the processing of requests is conducted in a fair and consistent manner;

(f) Provide clear, accurate and accessible information on the criteria for the assessment of qualifications, including qualifications resulting from cross-border provision[160].

Unesco Global Convention On Recognition Of Qualifications

Today, out of 254 million students worldwide, 6.4 million are studying abroad, a significant increase from 2 million in 2000, with more than half studying outside their region. In response to this growing academic mobility, the Global Convention on the Recognition of Qualifications concerning Higher Education was adopted in November 2019 during the 40th session of the UNESCO General Conference, becoming the first United Nations treaty on higher education with a truly global scope. The Global Convention sets out universal principles to ensure the fair, transparent, and non-discriminatory recognition of higher education qualifications and qualifications giving access to higher education, thereby opening pathways for further study and employment. It also accommodates non-traditional learning modes by facilitating the recognition of qualifications, prior learning, and study periods completed remotely, and it promotes the recognition of refugees' qualifications even when complete documentation is unavailable. By ratifying the Convention, countries commit to enhancing international cooperation in higher education, improving its quality both domestically and globally, and making academic mobility and qualification recognition a reality for millions of students. Open to UNESCO Member States and the Holy See, the Convention received its 20th ratification on 5 December 2022 and entered into force on 5 March 2023. As of September 2024, 36 States have ratified it, marking a major step toward improving student mobility and the recognition of qualifications across borders[161]. This is the world's first global agreement on higher education, aiming to improve how students can move between countries for education and how their qualifications are recognized[162].

Benefits Of The Convention

For students

[160] *Supra 130*

[161] UNESCO, Global Convention on the Recognition of Qualifications Concerning Higher Education, UNESCO (2019), https://www.unesco.org/en/higher-education/global-convention

[162] UNESCO, Global Convention on Higher Education Enters into Force: A New Era for Students Worldwide Begins (Mar. 6, 2023), https://www.unesco.org/en/articles/global-convention-higher-education-enters-force-new-era-students-worldwide-begins

The Convention offers significant benefits for students, particularly those seeking recognition of their qualifications in another country or region, whether for continuing their higher education or entering the labour market. For instance, it will simplify the process for students to have their high school diplomas recognized in another region, allowing them to pursue post-secondary studies there. It will also assist students who wish to complete a degree in a different country based on studies they have already started elsewhere[163].

For countries

For countries that commit to the Convention (States Parties), the Global Convention serves as a powerful tool to prevent brain drain by encouraging the establishment of mechanisms for recognizing qualifications obtained abroad.This will make it easier for academic diaspora members who have obtained their degrees abroad to return. In addition, the Convention offers forums for cross-border and cross-regional cooperation among national authorities, allowing them to create better instruments and procedures for the recognition of higher education credentials[164].

Other benefits

The Global Convention acknowledges that physical mobility has historically been a luxury and works to diversify the populations of mobile researchers, professors, and students. Likewise, it encourages the growth of different mobility paths, such as virtual mobility, which will make international mobility more accessible and inclusive for a larger group of people[165].

Shifting the Burden of Proof: A UNESCO Perspective

The UNESCO Global Convention on the Recognition of Qualifications is a framework that is intended to improve student mobility and university collaboration. Millions of students and degree holders worldwide benefit from its solutions to issues in fields like distant learning and cross-border education. By promoting diversity and

[163] UNESCO, About the Global Convention on the Recognition of Qualifications Concerning Higher Education, UNESCO, https://www.unesco.org/en/higher-education/global-convention/about
[164] *Ibid*
[165] *Ibid*

flexible learning pathways over inflexible, traditional systems, the Convention seeks to increase access to and collaboration in higher education[166].

To achieve success, nations must create national information centers that deliver precise information regarding their higher education systems. Applicants have the opportunity to appeal if a foreign degree is not accepted, and recognition authorities are required to provide justification for their ruling. A major step toward accomplishing Sustainable Development Goal (SDG) 4.3, which places a premium on high-quality postsecondary education, is this Convention. It encourages educators, legislators, and students to work together to build a world where everyone has the chance to learn and thrive, paving the path for a more equitable, accessible, and sustainable future[167].

The New Concept Of Brain Circulation- A UNESCO Perspective

In order to increase access, quality, and equity in higher education, it is imperative to remove obstacles to professionals' and students' cross-border mobility through the facilitation of academic recognition. However, exporting nations frequently struggle with brain drain, a phenomenon in which gifted people leave for receiving nations, resulting in brain gain. Through the worldwide convention, UNESCO promotes the idea of brain circulation as an alternative to the ideas of brain gain and brain outflow. By ensuring that gifted people have equitable access to opportunities for cross-border mobility and skill exchange locally, internationally, and globally, this strategy promotes a more cohesive and cooperative global society. Implementing well-balanced policies that reduce risks, maximize possibilities, and produce win-win results for sending and receiving nations is necessary to achieve this. To achieve these objectives, more mobility backed by equitable, open, and efficient academic recognition systems will be essential[168].

❖ NATIONAL FRAMEWORKS

Association Of Indian Universities

Since its inception in 1925, the Association of Indian Universities (AIU) has been responsible for granting academic equivalence to qualifications awarded by accredited,

[166] *Supra 161*
[167] *Ibid*
[168] UNESCO, Qualifications Recognition: A Door to Collective Progress,UNESCO, https://www.unesco.org/en/articles/qualifications-recognition-door-collective-progress

approved, or recognized foreign boards and universities for the purposes of higher education and employment. AIU facilitates students by issuing equivalence certificates. The Ministry of Human Resource Development, Government of India, acknowledged the AIU's work through a letter dated 13th March 1995 (No. F. 15-17/94-TS IV), and issued a Gazette Notification stating that "foreign qualifications recognized or equated by the AIU are treated as recognized for the purpose of employment in posts and services under the Central Government."[169]

Currently, the equivalence is determined based on the policies, procedures, and regulations adopted by various statutory bodies and councils of the Government of India, which are :

a) The degree is awarded by foreign universities which are approved/recognized/accredited in its own country;

b) degree is pursued by student as full time regular student on the campus of the university;

c) the minimum prescribed duration of the degree programme of the studies is atleast the same as applicable in case of Indian Universities

d) the minimum eligibility requirements for admission in the degree programme of the studies is at least the same as applicable in case of Indian Universities[170]

On fulfilment of the above parameters, equivalence certificates are issued.

AIU provision for Seeking Admission To Programme Of Studies Promising Degrees Awarded By The Foreign Universities For Studies Undertaken In India:

Equivalence is granted only if the following conditions are fulfilled: (a) the foreign university awarding the degree must be duly approved/recognised by the competent authorities in its own country and/or must be duly accredited by the recognised accrediting agency in its own country; (b) the institute/college/university where studies were undertaken in India must be duly approved/recognised by the competent authorities in India and/ or duly accredited by the recognised accrediting agencies in India; (c) the institute/college/university where studies were undertaken in India must be duly approved by the competent authorities in India (UGC/AICTE/ Government of India) to award degree of the foreign university; (d) the degree has been awarded in

[169] Student Login, AIU Evaluation, https://evaluation.aiu.ac.in/Student/Login (last visited Apr. 15, 2025).
[170] *Ibid.*

accordance with the Rules & Regulations framed by the Statutory/Regulatory Bodies in India; (e) the student has completed his studies as a full time regular student throughout the prescribed duration of the programme of the studies; and (f) that all other parameters as laid down by AIU for according equivalence to foreign degrees have been fulfilled[171]*;*

Academic Bank Of Credit (ABC) Recognition

To commemorate the first anniversary of the National Education Policy 2020 (NEP-2020), the Prime Minister unveiled the Academic Bank of Credit on July 29, 2021. The goals of India's comprehensive education reform program, better known as the NEP-2020, were to improve socioeconomic conditions, expand access to high-quality education, enhance scientific knowledge, promote national unity, conserve cultural traditions, and strengthen the economy.

The aim is to adopt best strategies to leverage the country's diverse skills and resources. An institution must have obtained a 'A' grade or above from the National Assessment and Accreditation Council (NAAC) in order to be eligible for the Academic Bank of Credit system. Recognizing that learning happens outside of regular classrooms and appreciating all types of learning is a fundamental aspect of the Academic Bank of Credit. Students can transfer credits they have earned at one institution to another, increasing educational flexibility, and the system encourages mobility and continuity in education by utilizing the notion of credit accumulation and transfer[172].

Relevance Of NAAC in ABC Recognition

NAAC accreditation supports the success of the ABC (Academic Bank of Credits) system by ensuring quality assurance, standardization, and continuous improvement in higher education. It assures stakeholders of consistent academic standards, facilitates smooth credit transfers, and encourages institutions to enhance their quality. Additionally, its international recognition helps institutions attract global partnerships and enables students to transfer credits across borders.[173]

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171 https://evaluation.aiu.ac.in/Documents/PDF/AIU%20Advisory%20to%20Students%20Foreign%20Degree.pdf

172 Dr. Smritikana Ghosh & Dr. Ashok Kumar, Academic Bank of Credit: A Worldwide Viewpoint, 61 J. Hunan U. Nat. Sci. 29 (2024), https://doi.org/10.5281/zenodo.10867688

173 How Academic Bank of Credits and NAAC Accreditation Work Together?, Eklavvya, https://www.eklavvya.com/blog/abc-naac/

The ABC system currently benefits:

- Individual students or lifelong learners
- Teachers and parents
- Individual schools (UDISE/CBSE/ICSE/IB/State Education Boards)
- Higher Education Institutions (Universities/INIs, Autonomous Colleges, Stand-alone Institutes, etc.)
- Public skilling entities (Skill India Digital/MoSDE/State Skilling Corporations or Councils)
- Private skilling entities (EduTech companies)
- Regulatory authorities (UGC, AICTE, ICMR, BCI, etc., and the Ministry of Education)[174]

Supreme Court Decisions With Regard To Recognition/ Equivalence Of Qualifications

1. Unnikrishnan CV and Ors. V. Union of India & Ors[175].

The Supreme Court has reaffirmed that courts have no authority to specify requirements or determine whether a course is equivalent. It further said that the State, as the hiring authority, and other expert bodies should decide on the issue of qualification equivalency.

The Bench of Justice Sanjay Kishan Kaul, Justice Manoj Mishra and Justice Aravind Kumar observed that *"It is trite law that courts would not prescribe the qualification and/or declare the equivalency of a course. Until and unless rule itself prescribes the equivalency namely, different courses being treated alike, the courts would not supplement its views or substitute its views to that of expert bodies.*[176]*"*

2. Guru Nanak Dev University v. Sanjay Kumar Katwal and another [177]

[174] Academic Bank of Credits – FAQs, Academic Bank of Credits (ABC), https://www.abc.gov.in/faq.php (last visited Mar. 23, 2025)
[175] 2023 SCC OnLine SC 343
[176] Sanjoli N. Srivastava, Equivalence of Qualification Is a Matter to Be Determined by Expert Bodies Being Recruiting Authority & Not Courts – Reiterates SC, Verdictum (Mar. 31, 2023), https://www.verdictum.in/court-updates/supreme-court/courts-cannot-prescribe-qualification-for-a-course-expert-bodies-1469588
[177] (2009) 1 SCC 610

Their Lordships of the Supreme Court have held in no uncertain terms that equivalence is a technical academic matter and decision on question of equivalence must be by specific order or resolution duly published, by holding as under: –

"….Equivalence is a technical academic matter. It cannot be implied or assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order or resolution, duly published. The first respondent has not been able to produce any document to show that the appellant University has recognised MA (English) (OUS) of Annamalai University through distance education as equivalent to MA of appellant University. Thus, it has to be held that the first respondent does not fulfil the eligibility criterion of the appellant University for admission to the three year law course[178]."

3. State of Rajasthan and others v. Lata Arun[179]

Their Lordships of the Supreme Court have held that question of equivalence of qualification are the matters which fallswithin the realm of the policy decision to be taken by the state by holding as under:-

"From the ratio of the decisions noted above, it is clear that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority.[180]"

4. Shifana P.S. Vs. The State of Kerala and Ors[181].

The Supreme Court dismissed the appeal of a candidate who was denied selection for the post of High School Assistant (Physical Science) because her B.Sc in Polymer Chemistry was not considered equivalent to B.Sc in Chemistry, as required by the job notification. Despite having a certificate from the University of Calicut stating equivalence, the Court held that equivalence is a technical matter that must be explicitly stated by the recruiting authority or through a formal resolution, not implied or assumed. Citing previous judgments, including Zahoor Ahmad Rather v. Sheikh

[178] https://indiankanoon.org/doc/870718/
[179] 2002 (6) SCC 252
[180] https://indiankanoon.org/doc/194067/
[181] 2024 INSC 580

Imtiyaz Ahmad and Unnikrishnan C.V. v. Union of India, the Court reiterated that judicial review cannot expand or alter prescribed qualifications. Since the appellant did not meet the specified criteria, her appeal was rejected[182].

5. Zahoor Ahmad Rather & Ors. v. Sheikh Imtiyaz Ahmad & Ors[183]

In this case, the Supreme Court ruled that having a higher qualification does not automatically imply possession of a lower qualification unless recruitment rules explicitly allow it. The case involved applicants with a Diploma in Electrical Engineering applying for the post of Technician-III in the Power Development Department of Jammu & Kashmir, where the required qualification was Matric with ITI. They were later disqualified for lacking an ITI certificate, even though they had been shortlisted. The Division Bench overruled the Single Bench's first verdict in favor of the applicants in the Jammu & Kashmir High Court, highlighting the fact that only applicants who met the required criteria were eligible. Declaring that equivalency is a policy issue for hiring authority rather than the judiciary, the Supreme Court maintained the Division Bench's ruling. However, the Court allowed a four-year age relaxation for future job postings due to the applicants' prolonged legal battle[184].

6. Devender Bhaskar & Ors. vs. State of Haryana & Ors[185]

In this case, the Supreme Court of India ruled that a two-year Diploma in Art and Craft obtained through distance education from Kurukshetra University is not equivalent to the diploma awarded by the Haryana Industrial Training Department, which requires regular classroom training with practical components. The Court emphasized that equivalence is a technical matter to be determined by expert authorities, not the judiciary, and upheld the State's right to prescribe specific qualifications for the post of Arts and Crafts Teachers. The High Court's decision directing the recognition of the Kurukshetra University diploma was set aside, and the writ petitions challenging the rejection of such diplomas for recruitment were dismissed. The Court relied on

[182] https://api.sci.gov.in/supremecourt/2013/1708/1708_2013_9_1501_54547_Judgement_06-Aug-2024.pdf
[183] AIRONLINE 2018 SC 872
[184] https://indiankanoon.org/doc/85514936/
[185] 2022 (1) SCT 51

precedents affirming that equivalence decisions rest with academic/administrative bodies and cannot be assumed or imposed by courts[186].

INTERNATIONAL CASE STUDIES OF IBC FAILURES CAUSED DUE TO INADEQUATE QUALITY STANDARDS IN HOST COUNTRY

1. The case of Raffles Vietnam's closure in 2012

Raffles Vietnam was forced to shut down its educational activities in 2012 after the Vietnamese government discovered that the firm was providing unapproved and unrecognized university-level courses, which ended up affecting 800 students. Since they were punished for illegally recruiting students, other foreign-affiliated organizations like ILA Vietnam and ERC Vietnam additionally bore the brunt of this crackdown. The sudden enforcement left students and new graduates to question the validity of their qualifications.

While some critics attributed the actions of the government to long-standing regulatory issues, others saw them as preferential treatment for local institutions. Raffles Vietnam ultimately had its business license canceled although they appealed the ruling.

The case highlighted the inconsistent application of quality assurance standards and the greater challenge experienced by foreign organizations in negotiating Vietnam's complicated higher education regulations[187].

2. The decline of American branch campuses in Japan

Nearly 20 branch campuses were established in Japan during the 1980s and and the 1990s, primarily by American universities. However, a number of these schools ended up closing after finding it difficult to meet enrollment targets and deal with Japan's regulatory framework, among other reasons.

The primary reason for their failure was that the Japanese academic establishment did not formally recognize them. As a result, graduates from these overseas branch campuses were not eligible for postgraduate study in Japan since they were not regarded as university graduates[188].

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[186] https://indiankanoon.org/doc/163064388/

[187] Mike Ives, Crackdown on Foreign-Linked Colleges Has Many Baffled, Stranded, University World News (June 3, 2012), https://www.universityworldnews.com/post-mobile.php?story=20120531125815847 (last visited Mar. 27, 2025)

[188] Shintaro Hamanaka, Japan's Education Services Imports: Branch Campus or Subsidiary Campus?, ADB Working Paper Series on Regional Economic Integration, No. 103 (Dec. 2012), https://www.adb.org/sites/default/files/publication/30079/wp103-japan-education-services-imports.pdf

3. Warnborough College: A Case of Unaccredited Degrees and Quality Failures

Warnborough College, operating from rented space at All Hallows College in Dublin, was criticized for offering expensive degrees lacking official recognition from Ireland's education authorities. Its qualifications were deemed "worthless" by the National Qualifications Authority of Ireland, and the misuse of All Hallows' name and imagery led to the termination of its rental agreement. Warnborough, previously known as "Warnborough University," was forced to change its name due to a violation of the 1997 Universities Act. The case highlights the importance of robust quality assurance and proper accreditation in higher education.[189]

4. The failure of Washington University of Barbados

Washington University of Barbados, a medical school that opened in 2017, closed the following year because it was not properly accredited and was involved in a scandal. The university shut down in less than two years, leaving many young Indian students stranded without food, electricity, water, or money. The CEO, Rao Venkata Gopi, was arrested for fraud and was also wanted in India[190].

5. UNSW Asia and its closure

In 2007, the University of New South Wales (UNSW) closed its Singaporean branch, UNSW Asia, just one semester after opening due to financial losses and low student enrollment. Despite planning for a student population of 15,000 over 20 years, fewer than 150 students enrolled in its first semester, leading to a $15 million loss and the inability to secure further funding. Although the campus was distinctive for fusing teaching and research, it found it difficult to compete with Singapore's more reasonably priced public universities. Critics blamed the closure on UNSW's failure to targeting less competitive students, thereby raising questions about the school's standing in the global education market. The project was unsustainable due to the

[189] Shane Phelan & John Walshe, College Charges €18,000 Fees for 'Useless' Degrees, Irish Independent (Feb. 15, 2008, 5:30 AM), https://m.independent.ie/irish-news/college-charges-18000-fees-for-useless-degrees/26454459.html

[190] Virgin Islands News Online, UWI Head Describes Scandal at Medical School in Barbados as Embarrassing, (Oct. 13, 2018), https://www.virginislandsnewsonline.com/en/news/uwi-head-describes-scandal-at-medical-school-in-barbados-as-embarrassing-.

failure to obtain a government assistance package, even though it had already cost $17.5 million and a further $140 million was planned for a permanent site[191].

CONCLUSION

Cross-border higher education is expanding rapidly, but it brings challenges related to quality and recognition. The researcher argues that not a single rupee spent on education should go to waste due to inadequacies in the national quality frameworks. Strong quality assurance at both international and national levels is essential. While international bodies like UNESCO and national agencies like NAAC have made progress, significant gaps remain—such as NAAC's lack of program-level accreditation and delays in implementing reforms like the Higher Education Commission of India (HECI). Failures of International Branch Campuses (IBCs) in other countries serve as evidence, highlighting the urgent need for stricter oversight.

[191] Harriet Alexander, Red Faces, Millions Lost as Uni Closes Campus, Sydney Morning Herald (May 24, 2007, 10:00 AM), https://www.smh.com.au/national/red-faces-millions-lost-as-uni-closes-campus-20070524-gdq7ti.html.

CHAPTER 5
COMPARATIVE STUDY OF REGULATORY FRAMEWORKS OF IBCs (INDIA, U.A.E. , MALAYSIA, CHINA)

It's said that a wise person learns from his mistakes. A wiser one from others' mistakes. But the wisest of all learns from others' successes

~ John C Maxwell

INTRODUCTION

The first university of the Americas: the National University of San Marcos in Lima, Peru, was established on May 12,1551, by a royal decree issued by Spanish King Charles V.[192] With the definition of transnational higher education (THE) as "the mobility of an education program or higher education institution/provider between countries," this was one of the first examples of transnational education.[193] Opportunities for student recruitment, income generation, and strategic institutional and research partnerships are seen by nations and institutions that export IBCs. On the other hand, IBC importers see an opportunity to meet labor market demands, avert the loss of human capital, and rapidly increase higher education capacity.[194]

Today, one of the riskiest and most untested ways to enter global higher education markets is through an international branch campus. IBCs are topic of interest worldwide, but not much is known about this internationalization option.[195]

This chapter is therefore aimed at doing a comparative study of the quality regulatory frameworks of IBCs in India, Malaysia, China, and the U.A.E. Apart from India, the

[192] Jordi Paniagua, Cristina Villó & Maria Escrivà-Beltran, Cross-Border Higher Education: The Expansion of International Branch Campuses, 63 Res. Higher Educ. 305 (2022), https://doi.org/10.1007/s11162-022-09674-y.
[193] Ibid
[194] Chris Mackie, Transnational Education and Globalization: A Look into the Complex Environment of International Branch Campuses, WORLD EDUC. NEWS + REVIEWS (May 28, 2019), https://wenr.wes.org/2019/05/the-complex-environment-of-international-branch-campuses.
[195] Egle Girdzijauskaite & Asta Radzeviciene, International Branch Campus: Framework and Strategy, 110 Procedia – Soc. & Behav. Sci. 301 (2014), https://doi.org/10.1016/j.sbspro.2013.12.874.

other three countries have been chosen because, according to current CBERT data[196], they are in the top list of host countries for International Branch Campuses.

INDIA

Today, IBCs are growing fast in India. Over fifty international colleges have applied to open campuses in India as of right now.[197] IBC differs from the already existing foreign universities in India like Yale University, University of California, University of Cambridge, etc. in India which lack physical presence and are established through partnerships or Collaborations with India Universities.[198]

As mentioned in the previous chapter, the two key regulations governing branch campuses in India are the University Grants Commission (Setting up and Operation of Campuses of Foreign Higher Educational Institutions in India) Regulations, 2023, and the IFSCA (Setting up and Operation of International Branch Campuses and Offshore Education Centres) Regulations, 2022.

As of 2024, Deakin University (Australia), University of Wollongong and the University of Southampton (UK) are the foreign universities with branch campuses in India. The Deakin's and Wollongong's campuses are located in GIFT City, Gujarat, and Southampton's in the Delhi National Capital Region (NCR).[199] Thus Deakin and Wollongong University will fall under IFSCA regulations, while Southampton University falls under UGC regulations.

Thus, a Foreign campus in India can be set under both IFSCA regulation and UGC regulations. However, the key differences between campuses under both these regulations are under UGC regulations, the foreign university can establish more than one campus in India, and also under UGC regulations, two different foreign universities can collaborate together and set up their campus in India. However, these two options

[196] https://www.cbert.org/intl-campus
[197] India Today Web Desk, Global Universities in India: UGC Grants Approval to 3 Out of 50 Applicants, India Today (Apr. 3, 2025), https://www.indiatoday.in/education-today/news/story/global-universities-in-india-ugc-grants-approval-to-3-out-of-50-applicants-2703510-2025-04-03.
[198] Foreign Universities in India: Impact, Challenges & Opportunities, Oswal Publishers (Jan. 24, 2024), https://oswalpublishers.com/blog/foreign-universities-in-india/.

[199] Rishab Chauhan, From Oxford to GIFT City: Global University Campuses Now in India, INDIA TODAY (Dec. 31, 2024, 12:29 PM), https://www.indiatoday.in/education-today/featurephilia/story/from-oxford-to-gift-city-global-university-campuses-now-in-india-2657459-2024-12-31.

are not available for IBCs set under IFSCA regulations.[200] Another key difference between the two regulations is that IFSC, being a financial zone, offers opportunities for courses in financial management, fintech, science, technology, engineering, and mathematics (STEM).[201]

QUALITY PROVISION FOR IBCs IN UGC AND IFSCA REGUALTIONS

- ***Eligibilty Criteria***

UGC Regulation

In the case of UGC regulations, there are two criteria[202]. A foreign university willing to establish a campus in India has to satisfy any of the two conditions. However, in both these criteria, UGC hasn't clearly specified which global rankings it is referring to.

IFSCA Regulation

Under IFSC regulations, a foreign university, in order to set IBC, has to satisfy four conditions.[203] Again, in these conditions, the terms' global overall ranking' and reputed institution remain vague as these terms can be subjective.

Another concern is that studies indicates university rankings, despite their widespread use, have numerous issues. They overlook crucial factors like teaching quality, community service, and student success in favor of statistics like research output, faculty size, and citations. The strategies might be ambiguous and unjust, frequently giving preference to large, wealthy universities while neglecting regional issues or

[200] University Grants Commission, Frequently Asked Questions (FAQs), UGC (Setting up and Operation of Campuses of Foreign Higher Educational Institutions in India) Regulations, 2023, https://fhei.ugc.ac.in/Downloads/FAQs.pdf.

[201] FAQs on IFSCA (IBC and OEC) Regulations, 2022, TaxGuru (Aug. 4, 2022), https://taxguru.in/finance/faqs-ifsca-ibc-oec-regulations-2022.html.

[202] Eligibility.- 1)The Foreign Higher Educational Institution intending to establish campuses in India shall fulfil any of the following criteria at the time of application, that- a) it should have secured a position within the top five hundred in the overall category of global rankings at the time of application, as decided by the Commission from time to time; or (b) it should have secured a position within the top five hundred in the subject-wise category of global rankings at the time of application or should possess outstanding expertise in a particular area, as decided by the Commission from time to time. (2) In the case of two or more than two Foreign Higher Educational Institutions intending to collaborate to establish campuses in India, each Foreign Higher Educational Institution should meet the eligibility criteria.

[203] Eligibility :- (1) In case the Applicant is a Foreign University, it should have secured a position within Top 500 in global overall ranking and / or subject ranking in the latest QS World Universities ranking. (2) In the case of Foreign Educational Institution, the Applicant should be a reputed Institution in its home jurisdiction. (3) The Applicant shall satisfy the Authority about its financial capability to establish and ensure the continuity of the proposed activities in GIFT IFSC. (4) The Applicant shall undertake to put in place suitable infrastructure and facilities to conduct the courses including research programmes in the permissible subject areas.

goals.[204] Experts such as Professor Ellen Hazelkorn, states that international university rankings mostly assess reputation and research success rather than the quality of instruction or student learning. Although most institutions' primary goal is to teach, this is hard to quantify and compare across nations. This has been attempted to be improved by initiatives like national surveys and assessment programs, but no approach is yet completely trustworthy. The rankings frequently make use of faulty metrics that don't accurately represent teaching quality, such as faculty-to-student ratios or notable awards. She contends that rankings shouldn't be used to assess the quality of education because they can mislead and even hurt students.[205]

- ***Quality Assurance and Accreditation***

UGC Regulations

With regard to quality assurance, UGC regulations mandate that foreign universities submit the latest accreditation or quality assurance report from a recognized body.[206] This provision means that regulation calls for home accreditation to make sure that the quality imparted by these institutions is similar to their campus in the host country. However, the term 'recognized body' is again not defined and remains vague

- At the time of initial approval:

At the time of initial approval, a standing committee will assess the application of the university based on merit, credibility, programs, educational opportunities, and infrastructure[207], and in case of a Foreign Higher Educational Institution possessing

[204] Mustafa Kayyali, The Relationship Between Rankings and Academic Quality, 4 Int'l J. Mgmt. Scis. Innovation & Tech. 1 (2023), https://www.researchgate.net/publication/371982309_The_Relationship_between_Rankings_and_Academic_Quality.

[205] Ellen Hazelkorn, Can We Measure Education Quality in Global Rankings? (Aug. 14, 2018), https://www.researchcghe.org/blogs/2018-08-14-can-we-measure-education-quality-in-global-rankings/.

[206] (3) The Foreign Higher Educational Institution shall upload the following documents along with the application on the University Grants Commission portal, namely:- (a) permission by the Governing Body or Board, by whatever name called, for establishing campuses in India; (b) information on the proposed location, infrastructural facilities, fee structure, academic programmes, courses, curricula, availability of faculty and financial resources for setting up and operations of campuses in India, and any other details that may be sought; (c) an undertaking to the effect that- i. the quality of education imparted by it in its Indian campus is similar to that of the main campus in the country of origin; and (d) the latest Accreditation or Quality Assurance report from a recognized Body; and (e) any other document as specified in the application portal.

[207] (4) The Commission shall constitute a Standing Committee to examine matters related to the setting up and operation of campuses of Foreign Higher Educational Institutions in India. (5) The Standing Committee shall assess each application on merit, including the credibility of the educational institutions, the programmes to be offered, their potential to strengthen educational opportunities in India, and the proposed academic infrastructure, and make recommendations thereof.

outstanding expertise in a particular area, the Standing Committee shall consider its strengths, outstanding contribution, research capacities, institutional history, institutional prestige and influence, and professional recognition within the areas, among others.[208]

However, the regulation doesn't provide any information about the members of this committee.

- Post-approval:

Through provision (10) of the regulation, an appointed commission is given the power to visit the campus and check the overall quality.[209] However, the criteria the Commission is taking into account to assess the overall quality is not mentioned in the regulation. Similarly, there is no transparency regarding who the members of the Commission are.

In addition to these provisions, there is provision (19) of the regulation, which states that foreign higher education institution shall undergo a quality assurance audit and submit the report to the Commission. However, there is no information on which body should be conducting such an audit.

Thus, from the analysis of these provisions, it is clear that foreign universities in India lack host accreditation due to the lack of proper quality checks by a recognized quality assurance body within the country.

IFCSA Regulation

- At the time of registration

IFSCA mandates that a foreign university submit the latest quality assurance report from a recognized quality assurance agency in the applicant's home jurisdiction.

- Post-approval / registration

The regulation vested IFSCA with the right to inspect and assess quality.[210] According to the provisions, the IFSCA can appoint an inspecting authority to undertake the

[208] (5) The Standing Committee shall assess each application on merit, including the credibility of the educational institutions, the programmes to be offered, their potential to strengthen educational opportunities in India, and the proposed academic infrastructure, and make recommendations thereof.
[209] 10. Power to visit. - The Commission shall have the power to visit the campus and examine its operations to ascertain the infrastructure, academic programmes and overall quality and suitability.
[210] Inspection :- (1) Authority shall have right to inspect at all times, including after the grant of in-principle

inspection of the foreign campus. However, the members of this Authority are not known, and also it cannot be considered as a quality assurance body.

Thus, the IBCs in Gift City, too, lack host accreditation which might affect the process of continuous improvement of these universities.

- ***Recognition of Qualifications***

UGC Regulations

Under the UGC regulation, there are provisions that mention the recognition of qualifications within India[211] and in the home jurisdiction.[212]

However, with the provisions for the recognition of foreign degrees within the country, UGC not only crosses its boundaries but also contradicts AIU's existing power to recognize foreign degrees within the country.

IFSCA Regulation

However, IFSC regulations only speak about recognizing qualifications in the home jurisdiction[213] but don't provide clarity on how these qualifications will be recognized in India.

This lack of clarity in the recognition of quality within India might result in an outflow of students to the home country of these universities after their graduation. Also it also

approval and before the grant of registration, to ascertain the infrastructure, quality and suitability of the IBC or OEC. (2) For the purposes of the inspection, the Authority may appoint one or more persons as „Inspecting Authority" to undertake the inspection of the IBC or OEC. (3) The Inspecting Authority may take help of such persons or professionals as he may deem fit and it shall be the duty of the IBC or OEC to extend full co-operation to the Inspecting Authority or persons authorised by him.

[211] (7) The qualifications awarded under these regulations shall be equivalent to any corresponding degree awarded by the Indian Higher Educational Institution for all purposes, including higher education and employment, with the following stipulations, namely:- (a) there shall be no further requirement of seeking equivalence from any authority; and (b) the degree shall have all benefits, rights, and privileges as obtained in the case of a degree awarded by an Indian Higher Educational Institution ordinarily.

[212] 3 (c) (ii) the qualifications awarded to the students in the Indian campus shall enjoy the same recognition and status as if they were conducted in its home jurisdiction, that is, they shall be recognized in the country of origin of the Foreign Higher Educational Institution and shall be equivalent to the corresponding qualifications awarded by the Foreign Higher Educational Institution in the main campus located in the country of origin.

[213] Recognition Of Qualifications:- 8. (2) The degree, diploma or certificate issued with respect to courses or programmes conducted in the GIFT IFSC shall enjoy the same recognition and status as if they were conducted by the Parent Entity in its home jurisdiction.

creates a line of discrimination between foreign students graduating from universities under UGC and IFSCA.

- ***Power to remove difficulties and relax strict enforcement of the regulations***

This is an additional provision found in IFSCA Regulations[214], which gives power to authority to relax further or to avoid the strict enforcement of the existing regulations, including those relating to quality.

Need for Host Country Quality Assurance and Accreditation- Case Study of Deakin University

Deakin University is the first international university in the world to open a teaching campus in India.[215] The GIFT City Campus offers future-ready Deakin postgraduate courses aligned with local employment needs. Students will receive the same standard of higher education in GIFT City as in Australia, with academic standards aligned with Australia's national accreditation body, the Tertiary Education Quality and Standards Agency (TEQSA).[216]

TEQSA's Obstacles And Challenges Of Cross Border Higher Education And Its Quality Assurance

TEQSA faces several challenges in regulating cross-border higher education (CBHE) provided by Australian institutions. One of the primary difficulties is determining whether the student learning outcomes for courses delivered outside Australia align with those required by the national Threshold Standards for the same course of study offered within the country. Another challenge is obtaining accurate information about the full range of a provider's cross-border activities. Additionally, there is the issue of overseas stakeholders, including governments and regulatory or quality assurance agencies, fully understanding Australia's higher education regulation and quality assurance framework. Some countries, such as China, do not recognize Australian awards, further complicating matters. Other challenges include understanding the

[214] 18. Power to remove difficulties and relax strict enforcement of the regulations:- (1) In order to remove any difficulty in the application or interpretations of the provisions of these regulations, the Authority may issue clarifications through guidance notes or circulars. (2) On an application, received along with non-refundable processing fees mentioned in reg. 16 (2) (iv) above, the Authority, may for the reasons to be recorded in writing, relax the strict enforcement of any of the provisions of these regulations.
[215] https://www.deakin.edu.au/about-deakin/locations/campuses/gift-city-india
[216] *Ibid.*

legislative and regulatory provisions in different countries, having adequate resources to carry out thorough assessments of cross-border activities (including site visits), and dealing with language and cultural differences that can affect everything from interpreting documentation to conducting interviews and facilitating effective communication between agencies. Finally, access to partner institutions and delivery sites, including physical and learning facilities, is often restricted, adding to the complexity of regulation[217].

A COMPARATIVE STUDY OF IBCS IN U.A.E, MALAYASIA AND CHINA

1. As Global Education Hub

- ***United Arab Emirates***

The UAE has a huge and rapidly expanding inbound student population. Compared to major international study destinations like the United States, the United Kingdom, or Australia, the United Arab Emirates has less international students overall due to its small size. However, its inbound mobility ratio of 48.6 percent surpasses that of all major destinations and is undoubtedly among the greatest in the world. According to UNESCO data, the number of international students pursuing degrees in the United Arab Emirates increased from 48,653 in 2011 to 77,463 in 2016.[218] As of March 2023, U.A.E. is home to approximately 30 international branch campuses, according to the updated C-BERT list.[219]

- ***Malaysia***

Over the past decade, Malaysia has emerged as a prominent destination for quality and affordable higher education in Asia, with a vision to become a developed, high-income nation through global educational partnerships. This ambition was outlined in the National Higher Education Strategic Plan laid down in 2020.[220]

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[217] *Ibid.*

[218] Kevin Kamal & Stefan Trines, Education in the United Arab Emirates, WENR (Aug. 10, 2018), https://wenr.wes.org/2018/08/education-in-the-united-arab-emirates.

[219] *Supra 5*

[220] Digital Learning Network, Malaysia Emerging as a Global Education Hub: Delivering Cost-Effective & Quality Education, Digital Learning (Oct. 26, 2023), https://digitallearning.eletsonline.com/2023/10/malaysia-emerging-as-aglobal-education-hub-delivering-cost-effective-quality-education/

Malaysia, which gained independence from Britain in 1957 and has a population of around 34 million, now boasts five universities ranked among the QS Top 300 Global Universities. It is recognized by UNESCO as the 12th most popular destination for international students, hosting over 200,000 foreign students, compared to India's 35,000[221]. As of March 2023, Malaysia is home to approximately 15 international branch campuses, according to the updated C-BERT list.[222]

- ***China***

A report by the Center for China and Globalization (2017) highlights China as the world's largest source of students studying abroad, with many choosing destinations like the USA, Canada, Australia, Japan, South Korea, and the UK. However, a significant number of Chinese students are also returning home after studying abroad, driven by improved job opportunities. In 2015, around 70% of students who went abroad came back to China. Mei and Xu (2009) noted that the Chinese government not only supports students studying overseas but also encourages their return to contribute to the country's economy and education system. Graduates from Western universities often enjoy an advantage in the Chinese job market, particularly in universities and international companies[223].

At the same time, China has seen an increasing number of international students choosing to study there. From 1978 to 2012, about 2.3 million foreign students studied in China, and by 2017, this number had grown to 442,773, with students mainly coming from countries such as South Korea, the USA, Thailand, Pakistan, Russia, and Kazakhstan. This growth is largely due to efforts by Chinese universities and the government to attract international students by offering scholarships and expanding programs taught in English. This reflects the growth

[221] Akhil Shahani, How Malaysia is Emerging as a New Education Hub, Times of India (Nov. 21, 2019), https://timesofindia.indiatimes.com/home/education/times-study-abroad/asia/how-malaysia-is-emerging-as-a-neweducation-hub/articleshow/72163644.cms

[222] *Supra 195*

[223] Tesfaldet Ghilay Frezghi & Samson Maekele Tsegay, Internationalisation of Higher Education in China: A Critical Analysis (Dec. 2019), https://www.researchgate.net/publication/338077895_Internationalisation_of_Higher_Education_in_China_A_Critical_ Analysis

and global expansion of Chinese higher education, which aims to improve its quality and enhance its international competitiveness[224].

As of March 2023, China is home to approximately 47 international branch campuses, according to the updated C-BERT list.[225]

2. Background/ Landscape Of IBC

- ***United Arab Emirates***

International branch campuses (IBCs) in the UAE are established within and outside free zones, and the regulatory frameworks for both these categories differ.[226]

- ***Malaysia***

Higher education in Malaysia is divided into public and private institutions. Public institutions, which are government-funded, include public universities, polytechnics, and community colleges. Private higher education institutions (PHEIs) encompass private universities, private university colleges, foreign branch campuses, and private colleges. As of 2011, the country had 25 universities, 22 college universities, 5 branch campuses, and 403 colleges registered with the Private Higher Educational Institution Management Sector (PHEIMS)[227]. In Malaysia, branch campuses fall under the Private Higher Educational Institutions Act 1996, meaning they are regulated and treated the same as private higher education institutions.[228]

- ***China***

The Chinese education system facilitates international education partnerships through the formal framework of Chinese-Foreign Cooperation in Running

[224] Ibid
[225] *Supra 195*
[226] Chris Mackie, International Branch Campuses Part Two: China and the United Arab Emirates, WENR (June 13, 2019), https://wenr.wes.org/2019/06/international-branch-campuses-part-two-china-and-the-united-arab-emirates.
[227] Parth J. Shah, Regulatory Structure of Higher Education in India, CENTRE FOR CIVIL SOC'Y (Nov. 2015), submitted to INT'L GROWTH CTR., https://www.theigc.org/sites/default/files/2015/11/Shah-2015-Working-paper.pdf.
[228] Section 23 of the Act states that: Except as is expressly provided under sections 21 and 22 all provisions of this Act shall apply to a private higher educational institution with the status of a University or University College or a branch campus thereof or a branch campus of a foreign University or University College established under this Part

Schools (CFCRS), which spans from preschool to higher education. CFCRS operates in two forms: Joint Institutes and Joint Programs. Australia is one of the most popular partners in this system, with over 10 CFCRS joint institutes and around 150 joint programs running in China[229].

A critical aspect of China's protective policy is the requirement that all providers of Transnational Education (TNE), including International Branch Campuses (IBCs), collaborate with a local Chinese organization. This policy creates opportunities for various TNE arrangements, such as joint programs, articulation agreements, and distance education. Some of these joint ventures, known as "joint venture institutions," are considered IBCs by C-BERT and are legally autonomous entities co-owned and operated by Chinese and foreign higher education providers. The Ministry of Education in China refers to these institutions as CFCRS institutions[230]

Transnational Higher Education (TNHE) has been promoted in China, particularly in less developed regions, as a means to enhance the country's higher education system. China has loosened its rules in the last 20 years in an effort to draw in prestigious international universities, particularly those that provide courses in science, engineering, and information technology. These partnerships were valued even if the institutions lacked legal autonomy. The information that is currently available, however, mostly represents institutions that were authorized in particular years and does not accurately reflect continuous policy changes[231].

3. Quality Assurance and Accreditations

- ***United Arab Emirates***

The Commission for Academic Accreditation (CAA) is tasked with ensuring quality at most institutions, including IBCs. However, IBCs located in free zones, which are special business areas with their own set of regulations and quality assurance bodies,

[229] Department of Education (Austl.), Approvals Processes for Chinese-Foreign Joint Institutions and Joint Programs, https://www.education.gov.au/download/12129/approvals-processes-chinese-foreign-joint-institutions-and-jointprograms/39255/document/pdf
[230] *Supra 225*
[231] Hongqing Yang, China's Regulatory Framework for Transnational Higher Education: Development, Impacts, and
Rationales, 12 Int'l J. Chinese Educ. 1 (2023), https://doi.org/10.1177/2212585X231162208

are not required to adhere to the CAA's standards. For example, in Dubai, KHDA is the quality assurance agency for IBCs in Dubai.

Quality Assurance of IBC outside free Economic Zones

In U.A.E. the Commission for Academic Accreditation (CAA) is the federal accreditating body tasked with ensuring quality at both domestic and private institutions, including IBCs.[232]

The CAA has developed standards for institutional licensure and program accreditation since 2001. The Standards for Licensure and Accreditation outline the requirements institutions must meet to obtain or renew licensure and accreditation[233]. These requirements apply to the entire institution and cover various aspects such as mission and governance, quality assurance, curricula and teaching methods, faculty, student services, learning resources, physical and financial resources, research, and community engagement[234]. U.A.E regulations also mandate the establishment of a local advisory board with community members and expectations for collaboration between the CAA and the parent institution's accrediting bodies to conduct joint visits and reviews[25]. The branch is required to publish handbooks for students, faculty, and staff, along with other relevant policies and procedures.[235]

In order to receive institutional licensure, a university must prove that it satisfies a number of requirements, such as having strong plans and strategies for carrying out its goal, adequate financing, facilities, and qualified personnel, and effective leadership. For new universities, this license is granted for a period of three years, during which they must show they can offer quality programs and maintain strong policies. After this initial period, the university must apply for renewal, providing

[232]Team Creatrix, Understanding the Purpose and Role of the CAA UAE in Higher Education, CREATRIX CAMPUS (Feb. 24, 2023), https://www.creatrixcampus.com/blog/understanding-purpose-and-role-caa-uae-higher-education#:~:text=The%20CAA%20and%20its%20team,the%20institution%20should%20receive%20accreditation.

[233] QAA, Country Report: The United Arab Emirates (2017), https://www.qaa.ac.uk/docs/qaa/international/countryreport-uae-2017.pdf?sfvrsn=25caf781_8

[234] *Ibid*

[235] Commission for Academic Accreditation, Ministry of Education, Standards for Institutional Licensure and Program Accreditation (2019), https://www.sharjah.ac.ae/-/media/project/uos/sites/uos/departments/compliance-and-internalaudit-office/our-policies/caa_standards_2019.pdf

evidence that it continues to meet the required standards and deliver high-quality education. Renewals can be granted for three, five, or seven years[236].

On the other hand, program accreditation pertains to certain academic programs, like degrees or courses. A university might pursue accreditation for certain programs to make sure they adhere to accepted criteria after obtaining its institutional license. Until a program has received accreditation, universities are not allowed to promote it or accept students. After the program has graduated its first cohort of students, the accreditation is revisited and renewed to ensure it continues to meet high standards and international expectations[237].

Quality Assurance of IBC within free Economic Zone- A case study of Dubai

In the early years, there was no structured quality assurance system for IBCs operating in Dubai's free zones. To address this gap, the Knowledge and Human Development Authority (KHDA) introduced guidelines in 2008 to oversee quality within Dubai's academic free zones, such as Dubai International Academic City (DIAC). These guidelines required that an IBC's programs meet the same quality as those at the home institution but did not set specific quality thresholds. Each free zone had its own regulations, and local authorities, such as TECOM in DIAC, decided which IBCs could operate. Once approved, these institutions often faced minimal or no ongoing quality checks[238]. But as the number of complaints about subpar institutions increased, the KHDA realized that a stronger system of quality assurance was needed. As a result, the University Quality Assurance International Board (UQAIB) was established, whose main

[236] Ibid.
[237] Ibid.
[238] Supra 225

objective is to guarantee that IBCs provide instruction on par with that of their home campuses[239]

Dubai has specific processes to ensure that institutions provide quality education to students. The KHDA assures higher education quality in two key ways.

The first method is through the University Quality Assurance International Board (UQAIB). Institutions located in Dubai's Free Zones are granted academic authorization by KHDA through this quality assurance system. UQAIB uses a validation model to ensure that the academic programs delivered in Dubai are the same accredited programs taught at the institution's home campus. All higher education institutions in Dubai's Free Zones must undergo the UQAIB quality assurance process[240].

The second method involves the Commission for Academic Accreditation (CAA). Institutions operating outside the Free Zones in Dubai must be licensed and accredited by the CAA. These institutions can apply for accreditation through the federal Ministry of Higher Education and Scientific Research via the CAA's website[241].

Problems caused by the Validation Model adopted in Free Economic Zone- A case study of Dubai IBC

Students, private university administrators, and the federal and provincial governments are among the stakeholders who are unhappy with the UAE's fast growth of subpar private universities. From the perspective of the government, the rise of these institutions has led to the operation of many universities with low academic standards, which in turn has impacted the reputation of the UAE as an educational destination. This issue also raises concerns about the long-term economic competitiveness of the country, as the graduates of these low-quality institutions may not possess the knowledge and skills necessary to succeed in the

[239] Angela Yung-Chi Hou et al., A Comparative Study of International Branch Campuses in Malaysia, Singapore, China, and South Korea: Regulation, Governance, and Quality Assurance, 18 Asia Pac. Educ. Rev. 1 (2018), https://link.springer.com/article/10.1007/s12564-018-9550-9.

[240] Knowledge and Human Development Authority, Quality Assurance in the Free Zones of Dubai, KHDA (Sept. 6, 2024), https://web.khda.gov.ae/en/Guides/Education-Providers/Responsibilities/Quality-Assurance.

[241] Ibid.

UAE's labor market[242]. Furthermore, degrees earned at institutions within Dubai's Free Trade Zones (FTZs) often do not have recognition beyond the emirate or for federal employment. While not all graduates are concerned about this, those who apply for jobs in government agencies or want to work outside the emirate encounter challenges. Given that it reduces the demand for their degrees, leaders at private universities are similarly unhappy about this lack of recognition[243]. Additionally, CAA-accredited universities do not recognize degrees from non-CAA institutions, further complicating the situation for graduates of private universities[244].

The voluntary nature of obtaining CAA Licensure and Accreditation for universities in the free zone has created another set of challenges, as qualifications from non-CAA licensed institutions are not automatically recognized at the federal level. In Dubai, qualifications granted by KHDA-approved institutions are recognized by both the public and private sectors for purposes such as employment and further study. However, the absence of federal recognition affects graduates' ability to work in federal public organizations across the UAE or continue their education at CAA-licensed institutions, and it may even hinder international recognition of their qualifications. In order to address this issue, numerous international organizations that operate in Dubai's free zones have voluntarily applied for CAA accreditation and licensure. As students want for credentials recognized globally, this lack of wider acceptance is a serious concern for universities that predominantly serve international or expatriate students[245]. To mitigate these issues, UQAIB has joined the International Network for Quality Assurance Agencies in Higher Education

[242] Ibid.

[243] Ibid

[244] Closing the Accreditation Gap in the UAE, MEED (May 9, 2011), https://www.meed.com/closing-the-accreditationgap-in-the-uae/.

[245] QAA, Country Report: The United Arab Emirates (2017), https://www.qaa.ac.uk/docs/qaa/international/countryreport-uae-2017.pdf?sfvrsn=25caf781_8.

(INQAAHE) and follows international guidelines to ensure quality, complementing the role of the CAA in maintaining high standards[246]

- ***Malaysia***

The Malaysian Qualifications Agency (MQA) is a statutory body established under the Malaysian Qualifications Act 2007, responsible for implementing the Malaysian Qualifications Framework (MQF). The MQF is a unified system of post-secondary qualifications in Malaysia. MQA oversees the quality assurance and accreditation of higher education institutions and programs in the country, while also working to promote the international recognition of Malaysian qualifications through partnerships with other countries and international organizations. In collaboration with the Ministry of Education and other stakeholders, MQA aims to enhance the quality of higher education in Malaysia. The agency offers a range of services to institutions, including accreditation, program evaluation, and quality assurance, and is dedicated to supporting lifelong learning and the development of a skilled workforce.[247]

MQA Accreditation Process

There are a number of systematic steps involved in getting accredited by the Malaysian Qualifications Agency (MQA). Institutions must first go through an eligibility evaluation to make sure they fulfill the minimal requirements needed to be accredited. After that, in order to show that they are in compliance with MQA's requirements and criteria, institutions must create a thorough self-assessment report that details their governance, administration, teaching and learning activities, research endeavors, and community engagement efforts. Following the completion of the self-assessment, MQA assigns a group of assessors to visit the location. During this visit, assessors interact with students, staff, and industry partners while assessing the institution's resources, facilities, and overall quality of education.

After the site visit, the evaluators compile an evaluation report detailing their findings and recommendations. This report is a critical component in MQA’s decision-making process regarding accreditation. Based on the evaluation report, MQA decides whether to grant accreditation to the institution; if successful, the institution is awarded a certificate of accreditation. Accreditation, however, is not the end of the process, as

[246] Knowledge and Human Development Authority, FAQs on Universities in Dubai, KHDA, https://web.khda.gov.ae/en/Guides/Students/FAQs-on-universities-in-Dubai

[247] Malaysian Qualifications Agency, Code of Practice for Institutional Audit (2d ed. 2020)

accredited institutions are subject to continuous monitoring and review to ensure ongoing compliance with MQA standards and criteria.

Through the established appeals process, an institution can submit its case to an impartial panel for re-evaluation if it disagrees with the accreditation outcome. As part of the rigorous process of getting ready for MQA accreditation, schools must carefully evaluate their programs in comparison to MQA's requirements and make the required adjustments. A key part of this preparation is the MQA accreditation visit, during which a team of specialists assesses the institution's adherence to accreditation requirements, typically following the completion of the institution's internal self-evaluation and improvement initiatives[248].

Steps involved in the MQA Accreditation Process

The Malaysian Qualifications Agency (MQA) usually follows a set of procedures while conducting an accreditation visit. In order to discuss the accreditation process and assess the institution's performance in relation to MQA's set standards and criteria, the accreditation team first meets with the administration of the institution. After this, a comprehensive examination of the organization or particular program is part of the evaluation process. To ascertain conformity with MQA requirements, the accrediting team examines paperwork, meets with students, faculty, staff, and industry partners, and inspects the institution's resources, facilities, and services.

Following the evaluation, the institution receives first input from the accrediting team during an exit meeting. The team identifies particular areas that require work, highlights areas of strength and weakness, and makes recommendations for change during this meeting. Following the visit, the MQA starts the post-accreditation procedure. The accreditation team prepares a detailed accreditation report, which is submitted to the MQA Accreditation Committee for review. Based on this report, the committee makes a recommendation regarding accreditation status to the MQA Board.

An institution must take corrective action by fixing the shortcomings found during the review if it is given conditional or provisional accreditation. To address the challenges raised, the organization needs to create and carry out a thorough action plan. Beyond initial accreditation, institutions must focus on maintaining their accreditation status by continually adhering to MQA's criteria and standards, ensuring ongoing quality

[248] A Guide to the MQA Accreditation Process for Higher Educational Institutions, Creatrix Campus Blog (Mar. 20, 2023), https://www.creatrixcampus.com/blog/guide-mqa-accreditation-process-higher-educational-institutions.

assurance. Additionally, institutions are expected to commit to continuous improvement by regularly reviewing their performance, integrating feedback from stakeholders, and making systematic enhancements to sustain and elevate the quality of education provided[249].

- **Programme Accreditation under MQA**

The Malaysian Qualifications Agency (MQA) follows a structured, multi-stage process to ensure the quality of higher education in Malaysia. Before an institution can receive overall accreditation, its programs must first undergo program accreditation. This happens as a 2-step process. New programs are given provisional accreditation, which permits them to be delivered while guaranteeing that they fulfill requirements in crucial areas like curriculum, evaluations, faculty, and governance. In order to verify the facts, a panel of assessors reviews the documentation and may even visit the location. Full accreditation is granted once a program is operational and meets all MQA standards, including those that promote excellence. It involves a self-review by the institution followed by a site visit from assessors, who submit a report that justifies the accreditation decision[250].

- ***China***

The management of TNHE institutions is supervised by the national government, and the emphasis on quality has replaced a more laissez-faire attitude. Initially, China relied on the foreign university's home country to ensure quality, but now it has established its own quality assurance agency and an evaluation system for TNHE programs. The China Academic Degrees and Graduate Education Development Centre (CDGDC) leads this evaluation process, which involves self-assessment, report reviews, and onsite visits. Programs failing to meet the standards may be prohibited from enrolling new students or even closed. In addition to meeting China's regulations, these programs must also obtain approval from their home countries 'quality assurance systems, which results in the application of both the "duplication" and "home accreditor" quality assurance models. China's approach to regulating education quality is strict, and TNHE programs often have to modify or

[249] Ibid.

[250] Kevin Kinser & Jason E. Lane, An Overview of Authorization and Quality Assurance of Higher Education Institutions, Background Paper for the 2017/8 Global Education Monitoring Report: Accountability in Education: Meeting Our Commitments (2017), https://unesdoc.unesco.org/ark:/48223/pf0000259561

expand their course content to comply with both Chinese requirements and those of their home institutions[52].

The Ministry of Education (MoE) in China emphasizes several key considerations when evaluating foreign partnerships for Chinese-Foreign Cooperation in Running Schools (CFCRS) programs. One major requirement is that foreign providers must contribute educational resources, including delivering at least one-third of the CFCRS program. This should preferably be taught by core faculty members to maintain the same quality of the program as those offered at the home campus of the foreign degree awarding institution. In order to improve the program's quality and show the foreign provider's academic commitment, the MoE supports jointly produced courses and the merging of Chinese and foreign courses. Additionally, joint institutions that do not have legal person status are encouraged over joint programs, as they signify a more substantial and long-term commitment of resources from the foreign provider.

The MoE is cautious about serial partnerships, where a single foreign provider operates many joint programs with different Chinese partners, as it believes this could stretch the provider’s resources and negatively affect quality. When evaluating applications for additional partnerships, the MoE assesses whether the provider can guarantee adequate resources, including qualified faculty. There is also a reluctance to approve new joint programs if the foreign partner already operates a similar program, as this could suggest a lack of commitment to the existing partnership. Furthermore, the MoE encourages joint programs to spend the majority of time in China CFCRS programs are also encouraged to focus on areas that align with provincial and national development needs. Programs in fields that are oversaturated, such as business, finance, and management, are not prioritized. In line with the goal of improving opportunities in less developed regions, TNE programs in Central and Western China are particularly encouraged, though the most developed regions still account for the majority of new joint programs. The MoE strongly favors partnerships with high-quality overseas institutions or those with a strong reputation in the relevant subject area, particularly top-ranked foreign universities and programs. Moreover, there is increasing emphasis on the performance of the overseas partner in previous TNE ventures. It is expected that the

partner institution can demonstrate a track record of successful program delivery, with at least one cohort of students having graduated from the program[251].

In China, the Ministry of Education (MoE) oversees the overall quality of education, but it delegates responsibilities to various agencies depending on the type and level of education. The Higher Education Evaluation Centre (HEEC), established in 2004, is tasked with evaluating the quality of undergraduate programs at universities and colleges, but it does not handle joint Chinese-foreign cooperation in running schools (CFCRS) programs. For postgraduate and Chinese-foreign joint programs at all levels, the China Academic Degrees and Graduate Education Development Centre (CDGDC) is responsible. In the case of vocational and sub-degree joint programs, the China Education Association for International Exchange (CEAIE) takes charge. CEAIE also provides a voluntary accreditation program aimed at enhancing the quality of these partnerships. After testing its evaluation process in four provinces, the CDGDC developed a nationwide system to review CFCRS programs. Each program is required to submit a self-evaluation report to the CDGDC annually. Additionally, every six years, 20% of these programs undergo a more detailed review, which includes checking documents and conducting site visits if necessary, especially when the paperwork raises concerns. The initial review process involves self-assessments and data such as student satisfaction surveys[54].

The review process specifically examines several key areas, with slight variations depending on whether the program is a joint institute or a joint program. These areas include the strategic objectives of the CFCRS and its unique characteristics, the management systems, including the handling of assets and funds, and the quality management of student admissions, teaching, and learning. Additionally, the evaluation looks into the teaching faculty, focusing on recruitment, appraisal, and development, as well as the teaching facilities and their future improvement plans. The outcomes for students, including their satisfaction, are also evaluated, along with the social benefits of the CFCRS, which are considered in terms of both the Chinese partner institution and the broader local or national community[252]. The evaluation of

[251] The Quality Assurance Agency for Higher Education, Country Report: The People's Republic of China (2017), https://www.qaa.ac.uk/docs/qaa/international/country-report-china-2017.pdf?sfvrsn=12c9f781_12.
[252] Ibid.

Chinese-Foreign Cooperation in Running Schools (CFCRS) programs can lead to three possible outcomes. The first is "Qualified," meaning the program meets all required standards. The second is "Conditionally qualified," where the program has some issues that need to be addressed within a specific time frame in order to maintain its approval. The third outcome is "Unqualified," indicating that the program fails to meet the standards, which could result in its approval being paused or revoked entirely[253].

4. Collaborations

- ***United Arab Emirates***

The Commission for Academic Accreditation (CAA) conducts its review procedures based on several international guidelines and standards. These include the Guidelines of Good Practice from the International Network for Quality Assurance Agencies in Higher Education (INQAAHE), the Guidelines for Quality Assurance from the European Association for Quality Assurance in Higher Education (ENQA), and the common core standards for quality review endorsed by the Arab Network for Quality Assurance in Higher Education (ANQAHE)[254] . Institutions that receive Institutional Licensure and Program Accreditation from the CAA are also encouraged to seek program accreditation from relevant international professional associations, where applicable[30]. Additionally, institutions may pursue affiliations with overseas institutions. In recent years, there has been a rise in the establishment of branch campuses in the UAE and joint programs with foreign institutions. To align standards internationally and enhance efficiency, the CAA is increasingly collaborating with other accrediting agencies and professional associations to conduct joint or concurrent reviews[255].

- ***Malaysia***

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254 Commission for Academic Accreditation, Ministry of Education, Standards for Institutional Licensure and Program Accreditation (2019), https://www.sharjah.ac.ae/-/media/project/uos/sites/uos/departments/compliance-and-internalaudit-office/our-policies/caa_standards_2019.pdf [30] Ibid.

255 Ibid.

MQA also collaborates with international quality assurance agencies such as INQAAHE, APQN, IQA, AYQON, and AQAN, to facilitate the mutual recognition of qualifications[256].

- ***China***

In 2012, the UK's Quality Assurance Agency (QAA) and the CDGDC entered into an agreement to enhance mutual understanding and cooperation. Their collaboration began with the QAA's review of UK transnational education (TNE) in China from 2012 to 2013, during which they exchanged data and allowed CDGDC staff to participate in review visits as observers. This partnership has continued to grow, expanding into broader international initiatives such as the Cross-border Quality Assurance Network (CBQAN). More recently, this collaboration led to the creation of the Beijing Statement, developed by the British Council and the China Education Association for International Exchange (CEAIE) as part of a broader education-focused cooperation between the UK and China.[257]

CEAIE is a member of both CIQG and INQAAHE and collaborates with quality assurance agencies from partner countries, such as the QAA, TEQSA, HCERES, NEASC, NVAO, and ASQA, to engage in joint quality assurance activities[258]. In 2015, CEAIE, alongside the French Embassy and French quality assurance agencies HCERES and CTI, launched a "Quality Label" project aimed at improving the quality of Chinese-French joint institutions. Additionally, CEAIE and ASQA carried out a pilot joint accreditation initiative for joint institutions and programs offered by vocational colleges in China[259].

5. Recognition of Qualifications

- ***United Arab Emirates***

The Ministry of Higher Education and Scientific Research (MoHESR) of the United Arab Emirates was founded with the goal of improving the standard of higher education and constructing a robust university infrastructure throughout the country. In order to ensure that public and private universities and colleges meet international quality standards, the ministry is in charge of developing strategic policies and plans

[256] Malaysian Qualifications Agency, Official Website, https://www.mqa.gov.my
[257] Supra 249
[258] China Educ. Ass'n for Int'l Exch., 2015 Annual Report: Message from the President and the Secretary General (2016), https://en.ceaie.edu.cn/uploads/cms/201606/16/G616685504671357.pdf
[259] *Ibid*

for their establishment.[260] A recognition report from MoHESR verifies that a degree obtained from an accredited university outside of the United Arab Emirates conforms with international academic standards and the norms set forth by the UAE Ministry of Higher Education & Scientific Research. This report can be used by anyone looking for work, going to school in the UAE, applying for a UAE visa, or applying for any other Federal or UAE government service.[261] 93 HEIs, including branches of federal, state, private, and foreign universities, have received licenses from MoHESR to date. Thirty-six HEIs in Dubai have institutional licenses, including those that are branches of international universities and operate in free zones. Applications for new HEIs, including private institutions and overseas branches, are also reviewed by MoHESR.[262]

- ***Malaysia***

Higher education providers use the Malaysian Qualifications Register (MQR) as a reference for their recognized programs. The Malaysian Qualifications Framework (MQF) must be followed by all of these programs, including degrees, certificates, diplomas, and advanced diplomas. One of the MQF's main features, the MQR, is essential to making sure that certified higher education degrees are correctly registered and available to all parties involved. If their programs are approved and meet the necessary requirements, both domestic and international higher education providers may request to have their credentials listed in the MQR[263]. Only accredited programs offered by higher education providers in Malaysia are included in the MQR. As of January 1, 2017, the responsibility for government recognition of qualifications for public service appointments falls under the Malaysian Qualifications Agency (MQA), replacing the previous authority of the Permanent

[260] Ministry of Educ., U.A.E., About the Ministry, https://www.mohesr.gov.ae/En/AboutTheMinistry/Pages/About.aspx (last visited May 25, 2025).
[261] Ministry of Educ., U.A.E., University Certificate Equivalency, https://www.mohesr.gov.ae/En/EServices/ServiceCard/pages/universiycertificateequilization.aspx (last visited May 25, 2025).
[262] Ministry of Educ., U.A.E., Ministry of Higher Education and Scientific Research Licenses 16 Higher Education Institutions in Dubai, https://www.mohesr.gov.ae/En/MediaCenter/News/Pages/Ministry-of-Higher-Education-and-Scientific-Research-licenses-16-higher-education-institutions-in-Dubai.aspx (last visited May 25, 2025).
[263] Malaysian Qualifications Agency, Malaysian Qualifications Register (MQR), https://www2.mqa.gov.my/mqr/english/eperutusan.cfm

Committee on Assessment and Recognition of Qualifications (JTPPK) within the Ministry of Higher Education[264].

Very recently, in 2025, The UAE's Ministry of Higher Education and Scientific Research (MOHESR) introduced a simplified process for recognizing international qualifications, making it easier for people with foreign degrees to get them officially accepted in the UAE. Now, the recognition process involves two main steps: first, getting your degree verified through an approved partner like DataFlow, and second, submitting the verified report to MOHESR for final recognition. This report is important for jobs, higher studies, visas, and government services in the UAE. DataFlow helps applicants by checking documents, guiding them through the process, and making it faster and more reliable. The new system is also a second chance for those who had trouble getting their degrees recognized before.[265]

- ***China***

China's Ministry of Education refers to these institutions as China-Foreign Cooperation in Running Schools (CFCRS). When students complete their studies at a CFCRS institution, they typically receive two degrees—one from the foreign partner institution and one from the independent CFCRS institution. The degree awarded by the foreign institution to IBC graduates is the same as the one awarded to students studying at the institution's main campus. The degree from the China-based CFCRS institution is equivalent to a standard Chinese "diploma of graduation." The degrees awarded in both countries are recognized by the respective accrediting agencies.[266] The Chinese government's educational authorities offer accreditation for diplomas or degrees issued by foreign universities or colleges, based on students' applications. This accreditation helps employers in China, particularly those in state-owned companies and government departments, verify whether foreign diplomas or degrees are comparable to Chinese qualifications. The Chinese Service Centre for Scholarly Exchange (CSCSE), an institution under the Ministry of Education, is the only official body that provides credential evaluation

[264] Malaysian Qualifications Agency, Malaysian Qualifications Register (MQR), https://www2.mqa.gov.my/mqr/
[265] DataFlow Group, UAE's MOHESR Introduces Simplified Recognition Process for International Qualifications, DataFlow Group (May 7, 2025), https://dataflowgroup.com/uaes-mohesr-introduces-simplified-recognition-process-for-international-qualifications/.
[266] Supra 225

and recognition services for overseas diplomas or degrees in China[267]. Students who study abroad or under an approved Sino-foreign cooperation program in China typically apply to CSCSE for accreditation, which takes into account the time spent studying abroad. However, degrees issued from pure cross-border online education programs are not accredited by CSCSE, according to current regulations.[268]

Conclusion

In conclusion, the regulatory frameworks in nations like China, Malaysia, the United Arab Emirates, and India show notable differences in quality assurance, qualification recognition, and institutional oversight, even though International Branch Campuses (IBCs) present promising opportunities to increase access to global education. Particularly with regard to quality standards and host-country certification, India's dual regulatory framework (UGC and IFSCA) offers both opportunities and uncertainties. Nonetheless, the contrast teaches India how the aforementioned nations could grab in IBCs and continue to grow successfully despite having more stringent national regulations.

[267] New Development of CSCSE's Accreditation of Overseas Diplomas and Degrees, MHP Law Firm (Apr. 6, 2021), https://www.mhplawyer.com/EN/05-12253.aspx.
[268] *Ibid*

CHAPTER- 6

FINDINGS AND SUGGESTIONS

INTRODUCTION

India has traditionally viewed education as a moral and social responsibility, rather than as a commodity to be bought, sold, or treated as a business. This perspective has led many critics, including Rajiv Malhotra, to oppose the entry of foreign universities into the country. In his book Snakes in the Ganga, Malhotra warns that allowing Western institutions into India could also invite "woke" ideologies that may portray a distorted and biased image of Indian society. However, now that foreign universities are being permitted to establish campuses in India, the researcher argues that it is more constructive to utilize their presence effectively rather than resist it entirely.

The researcher also wonders why international educational institutions in India are receiving special treatment even though the GATS agreement only mandates national treatment for foreign service providers. The researcher also questions why international colleges are not subject to the same regulations, even while programs like Paramarsh are pressuring all domestic institutions to obtain NAAC accreditation.

India currently has the advantage of having joined the global trend of creating international education hubs later than many other nations. India now has the chance to gain insight from the achievements and failures of countries that have hosted international campuses for more than ten years because to this delay. India can follow the best practices used by top locations for international branch campuses (IBCs) instead of making the same mistakes twice. The researcher believes that creating robust and trustworthy quality assurance mechanisms domestically is the best strategy to keep education from commercialization.

It is true to say that a large number of Indian universities perform poorly in international rankings such as the QS rankings.[269] However, this does not imply

[269] > TOI Education, Why Don't Our Best IITs Rank Among the World's Top 20 Engineering Colleges in the QS Rankings?, TIMES OF INDIA (Nov. 27, 2024), https://timesofindia.indiatimes.com/education/news/why-dont-our-best-iits-rank-among-the-worlds-top-20-engineering-colleges-in-the-qs-rankings/articleshow/115735352.cms.

that Indian pupils are untalented. Global tech titans like Arvind Krishna (IBM), Satya Nadella (Microso), Shantanu Narayen (Adobe), and Sundar Pichai (Google) really began their education at Indian universities. Even Narayana Murthy, who is regarded as the Indian Bill Gates, has talked about how his son was accepted to Cornell University in the United States despite not being accepted into an IIT. [270] He added that many Indian students who were rejected from prestigious Indian universities went on to receive scholarships at prestigious universities like Princeton and MIT. Even if the system doesn't always reflect it, this demonstrates how talented Indian students are.

Nevertheless, a large number of Indians continue to ignore the depth of their own intellectual tradition in favor of Western education. Many of us are still impacted by colonial systems and mindsets, despite the fact that we share a common ancestor with Aryabhata and Chanakya. According to the researcher, opening campuses for international universities in India could lessen this over-reliance on the West by increasing access to international possibilities at home. The researcher further stresses that India's development objectives and aspirations are entirely its own. No foreign country will help India out of sheer goodwill, especially now that India is regarded as a powerful competitor on the world stage.

FINDINGS

- **Commercialization of Higher**

The growing commercialization of education is a significant worry as more international universities open their doors in India. According to the researcher in Chapter 3, these concerns were brought up in a number of committees and meetings after 2005, when India offered to expand higher education services under GATS. Education may become less about learning and more about making money as a result of the increasing number of international universities in India. Despite their claims of high-quality instruction and global exposure, these universities frequently prioritize financial gain. This may widen the wealth disparity among students and establish an unjust system in which merit is subordinated to money. As top students and faculty transfer to well-funded

[270] > Dr. Sajal Sasmal, Tech Talks #9 – Narayana Murthy Opinion About IIT: Unable to Admit on His Own Son in IIT, YOUTUBE (2019), https://youtu.be/6jhMR5Ot1r8.

foreign colleges, Indian state universities—which already have limited funding and resources—may encounter further difficulties. Additionally, international colleges may not meet India's social, cultural, and developmental needs; instead, they might teach in ways that are more appropriate for their own nations. In addition to harming long-term objectives like inclusive growth, equality, and nation-building, this could erode the mission and character of Indian education. Therefore, even though international universities might have certain benefits, their admission should be strictly regulated to prevent education from becoming a business and to safeguard principles like equity, equality, and national advancement.

- **Quality Assurance and Host Accreditation**

  In the context of cross-border education, the importance of host nation accreditation and quality assurance is still crucial. The UNESCO Guidelines for Quality Provision in Cross-Border Higher Education emphasize the significance of national quality assurance organizations. As this research discusses, several case studies from throughout the world, including India, have also shown its significance.

  Countries like China, Malaysia, and the United Arab Emirates (U.A.E.) have host country accreditation systems for international branch campuses, according to the researcher's comparative analysis of regulatory frameworks in Chapter 5 (At first, some branch campuses in the U.A.E. lacked host country accreditation, which raised quality concerns that were eventually resolved by regulatory changes, as covered in the Chapter 5 case study of the Dubai branch campus) . Additionally, these three nations maintain program-level certification systems in addition to providing institutional accreditation to guarantee that IBCs' educational programs meet host country standards.

  Maintaining vast networks and collaborations with international organizations is a crucial criterion for national quality assurance authorities under the UNESCO Guidelines. However, India does not yet have a formal host accreditation system for IBCs or a complete national quality assurance structure. Despite being widely acknowledged as one of India's top quality assurance organizations, the National Assessment and Accreditation Council (NAAC) does not currently accredit international universities. NAAC's applicability in this situation is not just the researcher's opinion; as stated in Chapter 3, it has been suggested in

previous policy documents and expert discussions, such as the Yashpal Committee Report, the NUEPA Study (2005), and the CABE Report (2005).

In accordance with UNESCO's mandate, NAAC has formed a large number of international collaborations and networks. These networks put NAAC in a position to interact with home country regulatory agencies in an efficient manner, spot differences between the frameworks for quality assurance in the home and host countries, and endeavor to close such gaps. Furthermore, by facilitating the mutual acceptance of accreditation and qualifications, these international connections might increase the appeal of Indian universities to international students.

In India, the existing regulatory framework for IBCs lacks clarity and openness, which runs contradictory to the UNESCO Guidelines' principles. Further threats to the quality assurance of IBCs operating in India may arise from specific regulatory measures, such as Regulation 18(1) of the IFSC regulations, which grants extensive authority to eliminate restrictions and the strict implementation of current norms.

- **Recognition of Qualifications**
  - The primary body in charge of approving foreign degrees in India is the Association of Indian Universities (AIU). The AIU contains rules for recognizing degrees from international colleges that operate in India, as covered in Chapter 4. However, there are a number of other higher education services that are confusing under Mode 3 of the General Agreement on Trade in Services (GATS), including overseas university campuses and twinning partnerships. This is due to the fact that the AIU's provisions are vague about the kinds of services that fall under GATS Mode. For instance, the University Grants Commission (UGC) published a draft regulation on twinning arrangement recognition in the beginning of 2023. There have been numerous concerns that this draft does not fully comply with AIU's current recognition guidelines.[271] The University Grants Commission (Recognition and Grant of Equivalence to Qualifications Obtained from Foreign Educational Institutions) Regulations 2025 were just announced in

[271] > TNN, UGC Draft on Foreign Degrees May Not Conform to AIU Rules, TIMES OF INDIA (Aug. 18, 2023, 6:51 AM), https://timesofindia.indiatimes.com/india/ugc-draft-on-foreign-degrees-may-not-conform-to-aiu-rules/articleshow/102816036.cms.

April of 2025. However, the aforementioned law primarily addresses the criteria of twinning arrangements, joint and dual degrees and places an excessive amount of emphasis on equivalency and qualifications.

This legislation does not explicitly address IBCs in IFSCA regulations and totally excludes their recognition under UGC laws.

The regulations' sections relating to offshore campuses seem to refer to campuses located outside of India rather than those inside[272]. Additionally, it is anticipated that these rules will take the position of AIU, which is the organization with expertise in recognizing qualifications. for almost ten years. Therefore, even though this rule says it will make the procedure faster and easier, the researcher still finds flaws in it and realizes that the equivalency system is still included in the new regulation. Additionally, this could provide UGC greater autonomy.

- Additionally, those with foreign qualifications must obtain recognition or equivalency from the AIU in order to be eligible for central government posts in India. Nevertheless, there is no explicit guidance on this obligation in the International Financial Services Centers (IFSC) regulations or the UGC.
- Additionally, those with foreign qualifications must obtain recognition or equivalency from the AIU in order to be eligible for central government posts in India. Nevertheless, there is no explicit guidance on this obligation in the International Financial Services Centers (IFSC) regulations or the UGC.
- Another issue is that the Supreme Court has been reluctant to become involved in recognition cases in a number of instances. This grants

[272] (3) A qualification obtained from the Off-Shore Campus of a Foreign Educational Institution shall be recognised for grant of the equivalence certificate, subject to the following, namely: -
(a) the Off-Shore Campus has been approved by the competent authority in country where the campus is situated as well as in the country of origin where the main campus of the Foreign Educational Institution is
located;
(b) the academic programme offered at the Off-Shore Campus complies with the requirements of accreditation in the country where such Off-Shore Campus is located, as well as any such requirements in
the country of origin of the Foreign Educational Institution.
(4) A qualification obtained from any campus or institution under or through a Franchising arrangement shall
not be considered for recognition for the purposes of grant of equivalence.

professional bodies and educational institutions complete control over how qualifications are acknowledged.

- Finally, students at international branch campuses cannot access perks like Academic Bank of Credits (ABC) recognition since foreign universities operating in India are not approved by the National Assessment and Accreditation Council (NAAC).

- **Brain drain/ brain gain vs Brain Circulation**

  Allowing foreign colleges to open in India serves two goals: first, it reduces brain drain; second, it makes the nation an appealing destination for overseas students to study. This project is based on the larger goal of reestablishing India's historical position as a Vishwaguru (global knowledge leader), rather than just being motivated by profit or foreign investment.

  On the other hand, UNESCO advocates for the idea of brain circulation, which highlights a two-way movement of students across national boundaries. This paradigm assumes that talent and information will eventually return or circulate, even though it allows for brain drain to some degree. However, it is still unclear how effective brain circulation is in poorer nations like India. According to empirical evidence, there is little chance that students will return to India after leaving for school or work.

  The researcher comes to the conclusion that it is not enough to only build a platform to draw in international students and keep Indian students from leaving. Instead, by integrating them into the nation's job market and larger professional ecosystem, governmental initiatives should also concentrate on keeping both domestic and international students who graduate from branch campuses in India.

SUGGESTIONS

- **Passing of HECI Bill**

  The Higher Education Commission of India (HECI) Bill should be passed, according to the researcher. This measure will eliminate the current unique benefits enjoyed by international universities and treat them on an equal footing with Indian universities. India currently has a large number of regulating agencies, including the AICTE, AIU, NAAC, and UGC. These bodies frequently

fail to coordinate, which causes misunderstandings and overlaps in duties[273]. In order to increase transparency and decrease the independence of these disparate organizations, the new measure seeks to unify all of these regulations under a single framework.

- **Need for Programme Accreditation**

  India should establish clear instructions for university program accreditation to ensure that it satisfies the needs of the nation's development. Offering kids employment options shouldn't be the main goal. For instance, although programs on advanced technology for sustainable farming will better serve India's aspirations for sustainable development, courses like luxury brand management might not be necessary for the country.

- **Recognition of Qualifications and shifting the burden of proof**

  The UNESCO Convention on the Recognition of Qualifications is something that India ought to think about ratifying. In the event that a qualification is rejected, this would assist in shifting the burden of proof from students to organizations and trade associations. Instead of comparing qualifications for equivalency, the researcher advocates for their recognition. This implies that no qualification need to be turned down without a good reason. on instance, it is reasonable to refuse recognition if a job calls on practical abilities that the course does not teach. However, it is unreasonable to deny a degree without providing a valid rationale simply because it does not fulfill a certain course requirement.

- **Steps to Attract and Retain students in India**

India should go above and beyond to entice both domestic and foreign students to remain in the nation for work after completing their education. Some ways includes:

Increasing the transparency, clarity, and ease of use of the qualification recognition process are a few approaches to achieve this.

Encouraging India to establish a common language and making sure it is taught in foreign universities, particularly to students from other countries. Countries like Malaysia have already suggested teaching their national language, Malay, on their

[273] > Dr. Akhil Shahani, What Indian Education Can Learn From Malaysia, HIGHER EDUC. REV., https://www.thehighereducationreview.com/magazine/what-indian-education-can-learn-from-malaysia-NZGX12723483.html.

foreign branch campuses, proving that this is not an impractical notion. This strategy can assist India in promoting its native tongue internationally as well as retaining talent (brain gain)

Providing scholarships and other incentives to students who decide to continue their education and find employment in India. This is a sensible measure that nations like China have already successfully adopted.

Conceptual Ambiguity And Regulatory Divergence In Gats-Related Cross-Border Education- Concluding Remarks

The various modes of service are clearly defined by GATS, however the forms of education that fall under each mode are not. As a result, several nations have begun to define these forms of education in different ways. The different structures of International Branch Campuses (IBCs) provide as an illustration of this. For example, the United Arab Emirates permits international institutions to function in free zones like Dubai Knowledge Park that have a great deal of autonomy. In contrast, Malaysia encourages dual-degree and twinning programs, which are strictly regulated by the Malaysian Qualifications Agency (MQA). China, on the other hand, only allows IBCs through partnerships with local partners and under stricter Ministry of Education oversight. The legislative systems of various nations also change as a result of these setup variations, which could be confusing for students thinking about studying abroad. A student attending an IBC at a UK university in Malaysia, for instance, might be awarded a different kind of certification or degree recognition than a student completing an equivalent IBC in China. This ambiguity in terminology may serve as a legal loophole, permitting nations to view education more as a business endeavor than a public good. Furthermore, some concepts connected to the internationalization of education are not well defined. For example, "transnational education" and "cross-border education" are sometimes used interchangeably. Others counter that transnational education encompasses a wider range of options, such as joint degrees, franchise models, and offshore campuses, whereas cross-border education only refers to the transfer of educational services across borders (such online learning or branch campuses). While examining numerous articles and journals, including UNESCO reports and scholarly studies published in various periodicals, the researcher noticed this discrepancy.

Thus according to the researcher, there is need for more definitional clarity and worldwide regulatory norm harmonization in order to enhance quality and equity in international higher education and to guarantee that education continues to be a public good.

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