A CRITIQUE OF THE VIKSIT BHARAT SHIKSHA ADHISHTHAN BILL 2025

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Abstract

This article aims to analyse, by way of secondary doctrinal research, the underlying infirmities in the recent Viksit Bharat Shiksha Adhisthan Bill, 2025 and its impact on the State Universities. A federal critique of the Bill would suggest that it undermines the tenets of cooperative federalism and centre-state administrative balance. This article has tested the VBSA Bill against the doctrine of repugnancy and addressed how it benefits from the grey area around the doctrine. Statistical data on HEI funding has been borrowed to substantiate the argument that the VBSA may not be a funds disbursal body, yet the VBSA Bill must address practical realities around inadequate state funding. It is argued that indefinite and wide criteria are often an attempt at sub-delegation of powers to the Central Government. Additionally, expansive punitive powers and unchecked immunity under this Bill might cause a violation of principles of natural justice. Against the criticism, this article has not refrained from addressing the well-intentioned attempts to include provisos to multiple provisions mandating a fair hearing and upholding the principles of natural justice. This article does not deliberate upon the constitutionality of this Bill, but it attempts to suggest tools that may prove instrumental in dealing with the anomalies that exist against the principles of natural justice or manifest arbitrariness due to a combination of obscure criteria and excessive discretionary powers vested in the Central Government. Suggestions include a German inspired 'compensation for participation mechanism', phased transitional compliance, incorporation of 'equity' in 'quality', and a 'Student Impact Assessment'.

1. Introduction

On 15 December 2025, the Viksit Bharat Shiksha Adhishthan Bill, 2025 (hereinafter referred to as "the VBSA Bill" or "this Bill") was introduced in the Lok Sabha and subsequently referred to a Joint Parliamentary Committee for deliberation. The VBSA Bill seeks to establish an apex body (termed as the '*Viksit Bharat Shiksha Adhishthan*' or hereinafter referred to as the '*Commission*')

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to set and implement policy directions, coordinate regulation, accreditation, and ensure adequate academic standards for higher education.[2]

It is affirmed that this Bill is aligned with Chapter 18 of the National Education Policy (NEP) 2020, which envisions a "*light but tight*" regulatory system. This Bill claims to address issues of regulatory overlap and inconsistent quality across institutions for higher education or research and scientific and technical institutions, and tens of thousands of affiliated colleges.[3]

Proponents of the VBSA Bill argue that a unified regulatory body will reduce procedural redundancies, promote transparency through outcome-based oversight, and better position higher education institutions (hereinafter referred to as "HEIs"). This Bill seeks to foster interdisciplinary education, encourage research excellence, and support holistic student development. It features grievance redressal mechanisms, public disclosure obligations, and mechanisms for graded "autonomy" for the institutions and claims to promote them as "self-governing institutions".[4]

2. Background: Previous attempts at the unification and consolidation of regulators for higher education

2.1 The current regulatory framework

Presently, the University Grants Commission (UGC) functions as the primary statutory regulatory body for coordination, determination and maintenance of standards of HEIs. Whereas the All India Council for Technical Education (AICTE) is another statutory body that has delegated its regulatory power to the respective State Governments to approve the establishment of new institutions, introduction of new courses and intake capacity of such institutions.[5]

In addition to this, the National Council for Teacher Education (NCTE) aims to enhance, coordinate and regulate standards of teaching across educational institutions through various schemes for teacher education and training.[6] It has been argued that this arrangement has led to overlapping

[2] Abhinaya Harigovind, *What Viksit Bharat Shiksha Adhishthan Bill Proposes: Single Higher Education Body, Simpler Regulatory System*, THE INDIAN EXPRESS (Dec. 23, 2025), https://indianexpress.com/article/explained/higher-education-regulation-vbsa-bill-10431896/.
[3] Ministry of Education, *Shri Dharmendra Pradhan Introduces Viksit Bharat Shiksha Adhishthan Bill, 2025 in Lok Sabha Today*, PRESS INFORMATION BUREAU DELHI (Dec. 15, 2025), https://www.pib.gov.in/PressReleasePage.aspx?PRID=2204351&reg=3&lang=2.
[4] *Id*.
[5] *Regulatory Bodies, DEPARTMENT OF HIGHER EDUCATION, MINISTRY OF EDUCATION, GOI (Apr. 19, 2016), https://www.education.gov.in/en/regulatory-bodies.*
[6] *Introduction,* NATIONAL COUNCIL FOR TEACHER EDUCATION, IT & E-GOVERNANCE WING, NCTE (May 23, 2019), https://web.ncte.gov.in/page/introduction.

mandates, compliance burdens, and weak academic oversight. Previously, several policy and legislative attempts have been made to regulate HEIs. [7]

2.2 Introduction of the HECI Bill 2018

These concerns were formalised by the *Yashpal Committee Report* (2009), which recommended the subsumption of all the regulatory bodies within a National Commission for Higher Education and Research (NCHER) through a constitutional amendment.[8] To address these issues, the draft Higher Education Commission of India (Repeal of University Grants Commission Act) Bill, 2018[9], was publicly proposed, inviting feedback and discussion with stakeholders.[10] It sought to repeal the UGC Act and create a single regulator responsible for setting academic standards, but the Yashpal Committee's recommendation to separate funding from regulation was not taken into consideration.[11]

2.3 Criticism against excessive centralisation and weakening state governance

The HECI Bill was withdrawn after criticism from academics, teachers' unions, and other stakeholders who argued that it would concentrate power in the Central Government, undermine institutional autonomy, and weaken the role of State governments in governing HEIs. Critics argued that divesting the regulatory body of grant disbursal functions, vesting expansive penal powers without sufficient safeguards, and inclining the composition of the Commission towards the Central Government threatened fair inquiry.[12]

The VBSA Bill builds upon previous attempts to consolidate higher education regulation by reorganising oversight, accreditation, and academic standards through a unified regulatory body, thereby addressing concerns raised against the previously proposed HECI Bill.

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[7] Jhandyala B G Tilak, *Policy Crisis in Higher Education: Reform or Deform?* 38 SOCIAL SCIENTIST 61 (2010), https://www.jstor.org/stable/27896290.

[8] *Report of the Committee to Advise on Renovation and Rejuvenation of Higher Education*, The Committee to Advise on Renovation and Rejuvenation of Higher Education, MINISTRY OF HUMAN RESOURCE DEVELOPMENT, https://www.education.gov.in/sites/upload_files/mhrd/files/document-reports/YPC-Report_0.pdf.

[9] *The Draft Higher Education Commission of India (Repeal of University Grants Commission Act) Bill 2018,* https://prsindia.org/files/bills_acts/bills_parliament/1970/Higher%20Education%20Commission%20Draft%20Bill,%202018.pdf.

[10] *Bill to create single higher education regulator to be introduced in Parliament's winter session*, THE PRINT, Nov. 22, 2025, https://theprint.in/india/bill-to-create-single-higher-education-regulator-to-be-introduced-in-parliaments-winter-session/2790064/.

[11] *Legislative Brief: The Draft Higher Education Commission of India (Repeal of University Grants Commission Act) Bill 2018*, PRS LEGISLATIVE RESEARCH (Jan. 22, 2019), https://prsindia.org/files/bills_acts/bills_parliament/1970/Legislative%20Brief%20-%20HEC%20Bill%202018.pdf.

[12] Ayesh Kidwai, *The HECI Bill: Liquidating the State's Stake in Higher Education*, THE HINDU CENTRE FOR POLITICS AND PUBLIC POLICY (July 17, 2018), https://www.thehinducentre.com/the-arena/current-issues/article24442608.ece.

3. Highlights of the Bill

	Clause	***Salient Features***
A unified regulatory commission	**5**	This Bill establishes the Viksit Bharat Shiksha Adhishthan (VBSA), an overarching 'body corporate' to ensure effective regulation of higher education.
Repeal and subsumption of existing regulators	**54, 55**	The existing regulatory institutions, *viz.,* the University Grants Commission (UGC), the All India Council for Technical Education (AICTE), and the National Council for Teacher Education (NCTE), will be subsumed within the VBSA.
Structure	**10, 13, 15**	The VBSA will coordinate three specialised councils: **(1) The Regulatory Council** for recognition, authorisation, compliance monitoring, enforcement, and supervision. **(2) Accreditation Council** for accreditation and periodic quality assessment through an institutionalised evaluation system, and **(3) Academic Standards Council** for framing and maintaining academic and curricular standards, learning outcomes, etc.
Functions of the VBSA[13]	**9**	The VBSA is responsible for: • **Systemic coordination**, policy alignment, and overall supervision of the three councils. • To ensure consistency between regulation, accreditation, and maintenance of standards so that the three councils operate in a synchronised rather than siloed manner.

[13] *The Viksit Bharat Shiksha Adhishthan Bill 2025*, Bill No. 194 of 2025, cl. 9, https://prsindia.org/files/bills_acts/bills_parliament/2025/Viksit_Bharat_Shiksha_Adhishthan_Bill,_2025.pdf.

		• It plays an **advisory role** to the Central Government or any State Government for questions of higher education policies, and the creation of more authorities to carry out the aims of this Bill. • It **provides financial grants** for the functioning of the three Councils.
Substantive right to confer degrees	**17**	This Bill confers a substantive "right to grant degrees" to the following:[14] i. Universities, ii. Institutions specifically empowered by any act of the Parliament, and iii. Higher educational institutions authorised under this Bill. After authorisation from the Central Government, the Standards Council will define and determine what constitutes a "degree". This Bill withdraws the "deemed-to-be" status granted under the UGC Act[15] from universities that will now assume the status of Universities under this Bill.[16]
Enforcement and compliance mechanism	**33**	This Bill seeks to strengthen regulatory enforcement by extending the Regulatory Council's powers: • To seek clarifications from HEIs[17] • Impose monetary penalties for contraventions[18] • To remove persons (responsible for contraventions) from employment in HEIs[19]

[14] *Id.* at cl. 17.
[15] The University Grants Commission Act, 1956, §3.
[16] Pseshkumar, *VBSA Bill 2025: The One-Regulator Temptation and the* Reset, THE RAISINA HILLS (January 7, 2026), https://theraisinahills.com/vbsa-bill-2025-the-one-regulator-temptation-and-the-reset/.
[17] *Viksit Bharat Shiksha Adhishthan Bill 2025*, cl. 33(1)(a).
[18] *Viksit Bharat Shiksha Adhishthan Bill 2025*, cl. 33(1)(b).
[19] *Id.*

		• To review the level of academic and administrative autonomy for rectification of violations.[20] • In cases of consistent violations, it may recommend the Central Government or the State Government to:[21] i. suspend or modify the right to grant degrees of HEIs. ii. revoke recognition, and direct universities to revoke affiliation of HEIs, and iii. close or wind up such HEIs.
"***Adjudicatory mechanism***"	**34**	The Regulatory Council is authorised to set up an adjudicatory mechanism "in such manner as may be prescribed" to adjudge penalties under this Act.
Appellate Mechanism[22]	**37**	Appeals from orders of VBSA and Council are to be preferred before the Central Government "within such period and such manner as may be prescribed". The outcome of the appeal will be binding on the parties.
Supersession over VBSA and Councils[23]	**47**	This Bill empowers the Central Government to supersede (for a maximum of **six months**) the VBSA and Councils sought to be established under this Bill: • Subject to the President's assent. • Up to six months. • On the Central Government's opinion that VBSA and Councils are incapable of discharging their functions. • An opportunity for objections to such supersession has been provided to both the VBSA and the Councils.

[20] *Id*.
[21] *supra* note 12, at cl. 33 (1) (c).
[22] *supra* note 12, at cl. 37.
[23] *supra* note 12, at cl. 47.

		• The Central Government will take over the duties and functions of VBSA and the Councils *temporarily* until they are reconstituted. • The Central Government is authorised to extend the supersession period for not more than **six months**.[24] • The Central Government is obliged to lay a comprehensive report of actions taken for supersession under this provision before the Parliament.[25]
Immunity[26]	**48**	The VBSA and Council office bearers are protected against any suit, prosecution, or other legal proceedings for actions taken "in good faith" under the Act.
Power to remove "difficulties"	**53**	The Central Government is authorised to issue orders necessary and expedient for "removal of difficulties" within three years of the occurrence of such "difficulty". Orders under this provision shall be laid before both houses of Parliament. Wherein, the provision has no means to define or infer the actions that lead to "difficulty" for this provision.

4. Key issues and analysis

4.1 This Bill undermines the principle of cooperative federalism

4.1.1 Tested against the doctrine of repugnancy

Education has been made a subject matter of the Concurrent List post the 42nd Amendment of the Constitution.[27] This empowers both the State and Central Government to legislate upon the matters

[24] *supra* note 12, at cl. 47(3)(a).
[25] *supra* note 12, at cl. 47 (4).
[26] *supra* note 12, at cl. 48.
[27] INDIA CONST. sch. VII, list III, entry 25.

related to education (precisely, higher education). However, this anticipates circumstances wherein the State and the Centre may not come to terms with policy decisions for higher education. To address this issue, Article 254 of the Constitution provides for the *doctrine of repugnancy*[28] that empowers a central legislation to take predominance over state legislation on a subject matter that belongs to the Concurrent List whenever both are "fully inconsistent and are absolutely irreconcilable".[29]

The VBSA Bill applies[30] to all universities established by State Acts, affiliated colleges, open and distance learning institutions, "institutions of national importance", and even to institutions regulated under the Architects Act, AICTE Act and NCTE Act. This Bill overrides "any other Act governing the regulation of higher education" and takes precedence in determining standards in higher educational institutions.[31] In practice, these "standards" operate through State universities with funds from the State Government.

The American *pre-emption doctrine*[32] finds its Indian parallel in the doctrine of repugnancy. Whereas, on applying the *occupied field doctrine*[33] envisaged under the ***Forum for People's Collective Efforts v. State of W.B.***[34], it becomes evident that this Bill has attempted to preclude the existence of other State actors in the regulation of HEIs. This Bill warrants a weak execution of what is demonstrated to be a bona fide attempt to promote uniformity and standardisation of the regulation of HEIs in the public interest.[35] This does not deprive State's meaningful participation (especially within administrative and regulatory decisions) *until* an actual conflict arises.

However, in effect, this Bill restructures the regulation in a manner that systematically marginalises the States' executive and administrative power over HEIs. This, in itself, does not render the VBSA Bill unconstitutional.[36] However, the structure of this Bill hollows out the *doctrine of repugnancy* to empower the central government with excessive discretionary powers without any justified rationale and creates enough vacuum for arbitrary decision-making.

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[28] West U.P. Sugar Mills Assn. v. State of U.P., (2020) 9 SCC 548.
[29] M Karunanidhi v. Union of India, AIR 1979 SC 898.
[30] *supra* note 12, at cl. 2(1).
[31] *supra* note 12, at cl. 2(2).
[32]Michael G. McFadden, *Federal Pre-emption of State Laws: The Effect of Regulatory Agency Attitudes on Judicial Decisionmaking,* 50 INDIAN LAW JOURNAL 848 (1975), https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=3104&context=ilj.
[33] Arun Sagar, *Federal Supremacy and the Occupied Field: A Comparative Critique*, 43 PUBLIUS 251, 257 (2013), http://www.jstor.org/stable/42000286.
[34] Forum for People's Collective Efforts v. State of W.B, (2021) 8 SCC 599
[35] *Id.* at para. 133.
[36] Security Assn. of India v. Union of India, (2014) 12 SCC 65.

4.1.2 Thin representation of States and potential homogeneity of viewpoint

There exists only one nominee from States and Union Territories in the Regulatory Council[37] and one in the Standards Council[38] on a rotation basis, and one academician from State HEIs in both Councils each.[39] There is no explicit mention of a state nominee as a member in the VBSA itself. However, it includes two academicians from State HEIs.[40]

This undermines **cooperative federalism between the State and Centre** and risks converting State universities into *de facto* centrally regulated entities without meaningful participation by the States in fixing the standards for higher education.

The Report on Constitutional Governance and the Management of Centre-State Relations (2010) has diffused the restrictive notion of a "hierarchy" and acknowledged the regional and linguistic identity of States in Indian federalism by emphasising that:

"*A remarkable feature of the Indian federal scheme is its capacity to give expression to regional, linguistic and other sub-national identities of vast sections of Indian humanity*."[41]

The Inter-State Council[42] is an epitome of how governance of shared subject matters (such as the entries of the Concurrent List) requires a consultative and collaborative approach between both the State and the Centre to ensure that the unification of regulation does not undermine cooperative federalism.

Despite the warranted criticism of overlooking States, it must be clarified that the inclusion of experts within the Councils is a necessary step to ensure well-informed governance over HEIs. This Bill stipulates the eligibility and qualifications of the Presidents[43] and full-time members[44] of the Councils as eminent professors from distinguished research institutes with notable experience in research and "institutional capacity building" of HEIs.

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[37] *supra* note 12, at cl. 10(4)(e).
[38] *supra* note 12, at cl. 15(4)(c).
[39] *supra* note 12, at cl. 6(2)(e), 13(4)(b), 15(4)(b).
[40] *supra* note 12, at cl. 6(2)(e).
[41] *Report on Constitutional Governance and the Management of Centre State Relations*, COMMISSION ON CENTRE-STATE RELATIONS, vol. 2 (March 2010) at para. 1.3.01.
[42] *supra* note 26, at art. 263.
[43] *supra* note 12, at cl. 19 (1).
[44] *supra* note 12, at cl. 19 (2).

It must be noted that there is no thumb rule to determine what are "distinguished" HEIs. The HEIs in India are marred by political affiliations.[45] Therefore, this creates a tendency for such policy decisions to serve the interests of select elite groups. The composition clauses[46] in this Bill have been drafted as if they were designed to ensure the involvement of academic experts in regulatory decisions. However, the lack of state representatives in the composition of the Councils indicates that the policy decisions may serve the interests of the Central Government and individual states, with their concerns may be overlooked.

The NEP 2020 acknowledges cooperative federalism[47] by mentioning the ways of implementation by stating that "…since education is a concurrent subject, it will need careful planning, *joint monitoring*, and *collaborative implementation* between the Centre and States."[48] Tenets of cooperative federalism[49] require the adequate integration of States in the implementation of higher education policy. This Bill does not align with the NEP 2020 in its true sense and hence, is contradictory to its own objectives.

This Bill might establish a system of administration that undermines smaller, poorly funded State HEIs with less influence in higher education. It must be considered that the looking through a socio-political lens, the Indian political system is especially diverse and complicated. Therefore, any higher education policy must propose a more inclusive approach to ensure that the interests of the states are not overlooked.

4.1.3 Are HEIs truly "self-governing"?

The VBSA Bill claims to promote autonomous, self-governing institutions. Clause 4 states that this Bill aims to establish a "responsive and minimalistic regulation" system, ensure "autonomous" functioning of the three councils and prioritise outcomes. Additionally, Clause 11 introduces *graded autonomy* for HEIs, making autonomy contingent upon accreditation by the VBSA, which itself is not independent of the Central Government.

[45] SUNANDAN R. CHOWDHURY, POLITICS, POLICY AND HIGHER EDUCATION IN INDIA (Springer Nature 2017).
[46] *supra* note 12, at cl. 6, 10, 13, 15, 19–22.
[47] Niranjan Sahoo, *The National Education Policy 2020 and the future of cooperative federalism in India*, ORF RESEARCH AND ANALYSIS (August 6, 2020), https://www.orfonline.org/expert-speak/the-national-education-policy-2020-and-the-future-of-cooperative-federalism-in-india.
[48] *National Education Policy 2020*, MHR&D, GOVERNMENT OF INDIA (July 30, 2020) at cl. 27.2.
[49] Union of India v. Mohit Minerals (P) Ltd., (2022) 10 SCC 700, Para 51.

The VBSA and councils are bound by the Central Government and its directions on questions of policy.[50] If there is a dispute about whether something is a policy question, the Central Government's view is final.[51] Administration of the VBSA is vested in "Member Secretaries" who must be rank equivalent to the Secretary to the Government of India, appointed by the Central Government.[52]

Hence, this arrangement predisposes the regulation to be overhauled by the Central executive's directions. HEIs are unlikely to operate as self-governing entities when their regulation is vested in an entity that is structurally and functionally subordinate to the Central Government. Therefore, an anomaly exists in the aims and consequences of this Bill.

Despite the rhetoric of autonomy and "independent verticals", this is a *heavily centralised* regulatory design which is inimical to the states and state universities.

4.2 Unguided discretionary powers and obscure criteria manifest arbitrariness

Several crucial powers are vested in the Central Government by drafting in terms that are too open-ended for a statute that can close down institutions. For instance, the Regulatory Council may impose penalties for any "contravention of the provisions of this Act or the rules or regulations made thereunder".[53] Despite this, the underlying regulatory discretionary power is extensive. This is demonstrated by the phrases such as "all such steps as it may deem fit" for maintaining standards[54], "develop a coherent policy to prevent commercialisation of higher education"[55], etc.

Open-ended and indefinite criteria in provisions that confer great powers in an institution backed by the Central Government create scope for arbitrariness[56] by way of unguided discretion. By way of this argument, it is proposed that the following indicators may prove instrumental in determining if a regulatory legislation violates the rule of law:

[50] *supra* note 12, at cl. 45(1).
[51] *supra* note 12, at cl. 45(2).
[52] *supra* note 12, at cl. 20.
[53] *supra* note 12, at cl. 33(1).
[54] *supra* note 12, at cl. 11(1).
[55] *supra* note 12, at cl. 11(2)(d).
[56] *supra* note 26, at art. 14.

Firstly, the regulatory design emanating from any legislation must further foreseeability. This means that in this Bill, the regulated HEIs must be able to predict consequences and decisions based on fixed standards.[57]

Secondly, the legislation must be non-arbitrary. Decisions must be followed by a fixed standard and not the *will* of the regulatory body (or its affiliates).

Thirdly, a *modus operandi* that allows discretionary decisions must be subject to administrative or judicial review with a mechanism to record reasons for such decisions.

4.2.1 An inordinately subjective criterion for supersession

Clause 47 vests the Central Government with the power to supersede the Commission or any of the Councils if, *in its opinion*, the body is "unable to discharge" its functions or has "persistently made default" in complying with directions issued under the Act. The Central Government may supersede the Commission or any Council for up to six months, extendable by another six[58]; during supersession, all their powers vest in the Central Government.[59]

Supersession automatically vests all powers in the Central Government. Thus, it is justified only when the powers of supersession are exercised as a last resort, as per a fixed and measurable criterion of inability or persistent default by the regulators. This federal pre-emption creates a 'legal uncertainty'[60] that adversely impacts accreditation and enforcement outcomes for HEIs.

It must be acknowledged that the proviso to Clause 47 strengthens procedural accountability and follows principles of natural justice[61], as it provides the Councils and VBSA with an opportunity of hearing before the Central Government and mandating a detailed report of the actions taken and circumstances leading to supersession to be laid before both Houses of Parliament.

While reiterating the tenets of principles of natural justice, J. Hrishikesh Roy in ***Krishnadatt Awasthy v. State of M.P.***[62] has stated that while examining the breach of principles of natural

[57] Adam I. Muchmore, *Uncertainty, Complexity, Complexity, and Regulatory Design*, HOUS. L. REV. 1321 (2016), https://insight.dickinsonlaw.psu.edu/cgi/viewcontent.cgi?article=1346&context=fac_works.
[58] *supra* note 12, at cl. 47(1), (3).
[59] *supra* note 12, at cl. 47(2)(b).
[60] *supra* note 56, at Pg. 1329.
[61] A.S. Motors (P) Ltd. v. Union of India, (2013) 10 SCC 114.
[62] Krishnadatt Awasthy v. State of M.P, (2025) 7 SCC 545.

justice, it must be demonstrated that prejudice exists as a fact, or it can be inferred that there is a likelihood of prejudice caused as a result of the violation of principles of natural justice.[63]

The Supreme Court has applied the *doctrine of necessity*[64] to determine if a committee in question consists of a balancing mechanism. Procedural fairness is assessed not by the mere presence of an opportunity for a hearing but by whether the Central Government generates demonstrable prejudice or a definite likelihood of prejudice. Although Clause 47 provides a show-cause opportunity, the supersession trigger remains subjective and is exercised by the same executive who issues binding policy directions, making the process vulnerable to institutional bias.

4.2.2 Power to remove "difficulties"

Clause 53 of this Bill provides for the "power to remove difficulties". It permits the Central Government, by order in the Official Gazette, to make any provisions that may be necessary or expedient in "removing the difficulty" for a period of three years, with such orders being laid before Parliament as a mandate.

Legislators have omitted any distinct or definite definition of "difficulty" from this provision, which leads to inordinately broad and discretionary consequences termed as "necessary and expedient". There is no defined limit to the actions and circumstances that would be deemed necessary or expedient. An ordinary course of interpretation would suggest that "difficulty", in effect, would mean difficulty in discharging the responsibilities and duties to achieve the aims and objectives of this Bill.

Many scholars, along the tangents of legal philosophy, have argued that legislators must avoid 'linguistic vagueness' to ensure the maintenance of the rule of law and to preserve the trust of stakeholders in the legal system.[65] The Supreme Court in ***Manish Kumar v. Union of India***[66] has made it unequivocally clear that "a law, be it offspring of a legislature, falls foul of Article 14 if it is found to be vague"[67]. It has been time and again acknowledged that obscure and indefinite terms in legislation were felt to be an anomaly with dire consequences and manifestly arbitrary whenever manageable standards have not been adequately defined.[68]

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[63] *Id*. at ¶ 45.
[64] *supra* note 56, at ¶ 33.
[65] Alex Silk, *Theories of vagueness and theories of law*, LEGAL THEORY (2019), https://pure-oai.bham.ac.uk/ws/portalfiles/portal/57310045/vagueness_law_paper.pdf.
[66] Manish Kumar v. Union of India, (2021) 5 SCC 1
[67] *Id.* at ¶ para 61.
[68] Shreya Singhal v. Union of India, (2015) 5 SCC 1.

In different federalist structures, it has been observed that the federal (central) laws with overly broad and vague terms may, in effect, delegate the legislative task of determining the criteria to an authority other than the legislature itself.[69] This Bill delegates the authority to define such conditions to the Central Government.

The US Supreme Court has defined this as the '*vagueness doctrine*'.[70] The purpose of this argument is not to test the applicability of this doctrine in Indian jurisprudence since its federalism is unique among other federalist structures. However, it is not immune to overreach by the central executive.

This lack of definite standards or objective criteria authorises the Central Government to weaponise the provision for aims that may not be direct or incidental to the aims and objectives of this Act or decisions that are marred by bias and political gains.

The only substantive requirement is that orders must not be "inconsistent" with the Act. It is too indeterminate to prevent significant policy changes from being introduced through this Bill rather than through formal amendment. Nor does the requirement of laying orders "as soon as may be" before Parliament provide a robust safeguard.

4.2.3 Concentration of Regulatory, Adjudicatory, and Appellate Powers without Institutional Safeguards

The Regulatory Council sets standards and is empowered to impose steep penalties on HEIs[71]. Furthermore, closure and suspension powers in clause 33(1)(c) are triggered by repeated contraventions.[72]

Under Chapter VII of this Bill, the Regulatory Council sets up an adjudicatory mechanism for penalties "in such manner as may be prescribed".[73] There is absolutely no definition of how this adjudicatory mechanism must be set up, and therefore, it leaves discretion to the Central Government.

Moreover, this Bill does not require this mechanism to be institutionally separate or independent; it can be entirely internal. Appeals lie to the Central Government[74], which is also empowered to

[69] Joel S. Johnson, *Vagueness and Federal-State Relations*, 1565 U. Chi. L. Rev., (1589), (2023), https://www.jstor.org/stable/27348716.
[70]Peter W. Low & Joel S. Johnson, *Changing the Vocabulary of the Vagueness Doctrine*, 2070 Va. L. Rev. (2015), https://www.jstor.org/stable/24643541.
[71] *supra* note 12, at cl. 33.
[72] *supra* note 12, at cl. 33.
[73] *supra* note 12, at cl. 34.
[74] *supra* note 12, at cl. 37.

issue binding directions to the VBSA and the three Councils.[75] There is no fixed timeline for preferring such appeals, as the period must be prescribed by the Central Government.

The Regulatory Council is empowered to authorise non-university institutions, termed as "any accredited HEI", to grant degrees, and to revoke such authorisation[76], but the criteria for both are left to regulations. This is yet another instance where excessive discretionary powers are left to the executive regulations instead of ratified statutory criteria. The opportunity of being heard in the proviso of the clause does not atone for the lack of clear standards.

Hence, the power of rule-making, investigation, first-instance adjudication, and appeal all vest in the Central Government. There is no independent tribunal or quasi-judicial body. This will lead to dire consequences for the HEIs, especially when penalties include multi-crore fines, loss of grants, and closure of institutions.[77]

While Clause 36 is a well-intentioned provision to assess impact on students *ex ante*, it is only a general duty "not to affect the interests of the students" without any specific procedure. The regulatory council is obligated to "take steps" so that penalties imposed on institutions do not prejudice students' interests or impose monetary repercussions on enrolled students.

However, the provision does not specify what "steps" must be taken, nor does it create a substantive right to compensation for students, as the closure of institutions disrupts the education of the enrolled students. There is a lack of a proper enforceability mechanism for holding an impact assessment on the students, and hence, this might operate as non-instrumental (and merely declaratory) in truly addressing the issues that arise from the closure and suspension of HEIs.

4.2.4 Expansive immunity leads to a deficit in the principles of natural justice

Clause 48 of the VSBA Bill confers expansive immunity on the VBSA and Council office bearers by explicitly barring "any suit, prosecution or other legal proceedings" against them for acts done or "intended to be done in good faith." While such clauses are common in statutes[78], with certain statutes that specifically and distinctly lay down the conditions for indemnification[79], it becomes expedient to consider the ramifications of an indemnity clause for a Bill that expands the administrative powers of the Centre.

[75] *supra* note 12, at cl. 45.
[76] *supra* note 12, at cl. 11(4).
[77] *supra* note 12, at cl. 33(1) & (2).
[78] *The Companies Act, 2013*, Act No. 18 of 2013 § 456; *Consumer Protection Act, 2019*, Act No. 35 of 2019 § 98
[79] *Securities and Exchange Board of India (SEBI) Act, 1992*, Act No. 15 of 1992 § 24B.

There is no fixed definition of "good faith". It is the judiciary that attempts to define this principle[80], particularly in insurance law (as '*uberrima fides*')[81], contract law[82] and penal statutes[83]. In administrative law, to determine good faith, it is assumed that the decision must be "fair" and "reasonable". The Supreme Court, in ***State of Gujarat v. Paresh Nathalal Chauhan***[84]***,*** with reference to the good faith provision in the General Clauses act stated:

> **"7.** A good faith clause, explained in the vocabulary of the *rights and duties regime*, can be said to be a provision of immunity to a statutory functionary. Such provisions are in recognition of public interest in protecting a statutory functionary against prosecution or legal proceedings. This immunity is limited. It is confined to acts done honestly and in furtherance of achieving the statutory purpose and objective. Section 3(22) of the General Clauses Act, 1897 best explains "good faith" as *an act done honestly, whether it is done negligently or not* [Section 3(22) of the General Clauses Act, 1897 defines "good faith" as follows:
>
> "**3. *Definitions***.—In this Act, and in all Central Acts and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context—***(22) a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not;"] .
>
> Good faith clauses in statutes providing immunity against suits, prosecution or other legal proceedings against officials exercising statutory power are therefore limited by their very nature, *that far, and no further*…….
>
> **8.** A good faith clause in a statute will therefore be a defence. If successfully pleaded, it not only legitimises the action but also

[80] Raeesa Vakil, *Constitutionalizing administrative law in the Indian Supreme Court: Natural justice and fundamental rights*, INT. J. CONST. LAW 475 – 502, https://academic.oup.com/icon/article/16/2/475/5036457
[81] Jacob Punnen v. United India Insurance Co. Ltd., (2022) 3 SCC 655.
[82] R.K. Mohd. Ubaidullah v. Hajee C. Abdul Wahab, (2000) 6 SCC 402.
[83] Subramanian Swamy v. Union of India, (2016) 7 SCC 221.
[84] State of Gujarat v. Paresh Nathalal Chauhan, (2024) 17 SCC 241.

> protects the statutory functionary from any legal action. If a statutory functionary invokes the defence of good faith in a suit, prosecution or other legal proceedings initiated against him, it is for the court or a judicial body to consider, adjudicate, and determine whether the claim that the action was done in good faith is made out or not. Such a scrutiny, enquiry, or examination is done only in a proceeding against the statutory functionary. This Court has held that the scrutiny whether the act is done in good faith or not would depend upon the facts and circumstances of each case [See, for example, *Army Headquarters* v. *CBI*, (2012) 6 SCC 228, paras 76-78 : (2012) 3 SCC (Cri) 88.]**"**

A way to adjudge whether an administrative action is taken in "Good faith"[85] is by culling out mala fides behind the decision. This argument is not to adjudge whether there is a mala fide intent behind this Bill. It is to discuss procedural safeguards against a lack of good faith, if any.

It is argued that the interpretation of "good faith" is not divorced from the subjective morality of the judge.[86] Therefore, it becomes incumbent upon the legislators to ensure adequate procedural safeguards to ensure that principles of natural justice do not prejudice the HEIs subjected to the VBSA and the three Councils.

This Bill does not ensure that the immunity of office bearers of the VBSA and Councils follows the basic tenets of natural justice. Since there is **no** explicit mention of:

i. A reasoned order
ii. A specified, distinct criterion of the actions that may be presumed to be taken in "good faith".
iii. **Review** of such an order

In addition to this, once enforced, this Bill has been given an overriding effect over other statutes.[87] In effect, this may warrant arbitrary decision-making by the VBSA and the Commission while insulating them from accountability, making way for thin checks of regulatory overreach. A more

[85] A.K. Kraipak v. Union of India, (1969) 2 SCC 262, Para 20.
[86] Vedika Kakar, *Comparative Analysis of the Good Faith Doctrine*, (2026), https://articles.manupatra.com/article-details/COMPARATIVE-ANALYSIS-OF-THE-GOOD-FAITH-DOCTRINE.
[87] *supra* note 12, at cl. 49.

carefully drafted clause, tethered to objective standards and accompanied by independent adjudicatory review, is essential if the Bill is to balance regulatory efficiency with constitutional accountability.

4.3 The VBSA Bill imposes uniform standards where funding is structurally unequal

4.3.1 Segregating funding from the VBSA

The VBSA is not a funding body. This Bill allows the Central Government to grant funds to the Commission, but not to universities or colleges. It is stated that this Bill aims to provide "*efficient financial support and expenditure for improved quality*".[88] However, there is no mention of a mechanism to (1) allocate funds to institutions, (2) access funding gaps, or (3) equalise capacity between central and state universities.

Since the NEP 2020 segregated funding from the Councils that are meant to set academic standards, regulation and accreditation to ensure that the Councils remain efficient in discharging their functions. Despite considering the view of the legislators, this Bill makes enforcement inequitable since there is a lack of an equitable mechanism in favour of states that may not be granted adequate funds for their HEIs.

4.3.2 Statistics on funding in HEIs

The statistics by the Observer Research Foundation reveal that India (in 2023) has 903 universities, 39,050 colleges and 10,011 standalone institutes. Critics have argued that these universities and their affiliated colleges are often substandard as they are underfunded and politically influenced by both the state and the central government.[89]

In 2011 – 2012, India spent 1.22 per cent of its GDP (Gross Domestic Product) on higher education. This is relatively higher than in some European jurisdictions. The policymakers have focused on mass access to education as opposed to high-quality education in the higher education sector. Some scholars believe that "*The divided responsibility for supporting higher education by the states and the central government was an additional detriment, since coordination was difficult*", and it was

[88] *supra* note 12, at cl. 38.
[89] Antara Sengupta, *The higher education commission of India bill: A failure of imagination*, ORF ISSUE BRIEF (August 21, 2023), https://www.orfonline.org/research/the-higher-education-commission-of-india-bill-a-failure-of-imagination.

the States that did the heavy lifting for adequate funding. Herein, the States could not effectively support HEI due to inadequate funding. [90]

4.3.3 Funding dictates autonomy

Funding is an indicative factor of true autonomy for any institution. Central universities receive steady funding, whereas State universities depend on fiscally constrained State Governments. Historically, it is evident that the lack of egalitarian budgetary allocation to a select few states for even basic education failed the State Governments in fulfilling their educational policy objectives.[91]

Hence, the lack of an equitable mechanism only deepens vertical inequality as State universities will comply on paper or face penalties, while central institutions easily meet standards. Here, Accreditation outcomes will reflect financial disparities, not educational standards.

Funding of education from sources outside the central and state ministries of education amounts to ₹3,01,640 crore (approximately USD 34.99 billion), accounting for nearly 31.8 per cent of total educational expenditure in India. The higher education budget allocations demonstrate a discernible policy preference for "Institutes of National Importance" (referred to as the "distinguished HEIs" in the VBSA Bill) such as the IITs, NITs, and IIMs. Here, a substantial share of public funding in 2021–22 concentrated in these institutions supported by the Central Government. [92]

India's education funding model has been criticised as structurally inequitable and fiscally fragile. With a GER (gross enrolment ratio) of 28.4 per cent, higher education remains inaccessible to a substantial segment of the eligible population, yet public expenditure is concentrated in a limited set of centrally funded institutions. This distributional imbalance leaves most state universities and colleges operating under chronic resource constraints, impairing their ability to modernise infrastructure, adopt digital systems, and recruit or retain qualified faculty, thereby reinforcing disparities that national regulatory standards alone cannot correct.[93]

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[90] P.G. Altbach, *India's higher education challenges*, ASIA PACIFIC EDUC. REV. 15, 503–510 (2014). https://doi.org/10.1007/s12564-014-9335-8.
[91] Padma Velaskar, *Quality and Inequality in Indian Education: Some Critical Policy Concerns*, SAGE JOURNALS 67 (2010), https://journals.sagepub.com/doi/abs/10.1177/0973184913411200
[92] Karan Sharma & David Kaldewey, *Higher Education in India: Beyond Institutes of National Importance* (Working Paper) 18-19, https://www.fiw.uni-bonn.de/medien/publikationen/pdf/working-paper/fiw-working-paper-no-23.pdf.
[93] *Id.*

In May 2025, the Supreme Court dismissed a Public Interest Litigation seeking the implementation of the NEP 2020 (including the "three-language formula") in the State of Tamil Nadu. Justice Pardiwala reiterated that the States cannot be compelled by the Court to adopt "a policy like NEP 2020".[94] This reinforces that education policy, even when articulated through a national framework such as the NEP 2020, remains contingent on State consent and implementation, underscoring the limits of central compulsion in a concurrent field.

To consider the intentions of the legislators behind divorcing funding from the VBSA is to establish a uniformity with the NEP 2020, and this decision may be rooted in the belief that the States may object to funding education (owing to political sensitivity around the issue).

Moreover, the Centre's control over the funds would collapse the tenets of federalism. Since budgets are controlled by the Ministry (and not statutory bodies), allocating funding power to a statutory body may create further complications.

At this point, it must be made clear that the purpose of this argument is **not** to claim that the VBSA must become a funding body, but to establish a support mechanism for a minimum equitable fund, create regulatory powers over the authorities that are responsible for funding or establish standards that do not test the fiscal capacity of the States.

5. Recalibrating the VBSA Bill

The VBSA Bill can incorporate certain changes to ensure that it promotes the principles of cooperative federalism between the central and state governments. The Federal Republic of Germany is an archetype of cooperative federalism[95], where legislation may be concentrated at the federal (central) level, and the execution and administration are largely entrusted to the Länder (States). The States are not merely administrative units since they exercise adequate discretion in the execution and administration of federal (centralised) legislation and policy decisions.[96]

[94] G.S. Mani v. Government of Tamil Nadu & Ors., W.P.(C) No. 260/2025.
[95] Nathalie Behnke, *Chapter 21: Germany: Cooperation and Executive Dominance. In Teaching Federalism* EDWARD ELGAR, 221–232 (2013), https://www.elgaronline.com/edcollchap-oa/book/9781800885325/book-part-9781800885325-28.xml.
[96] Tanja A Börzel, *States and Regions in the European Union: Institutional Adaptation in Germany and Spain*, CUP: THEMES IN EUROPEAN GOVERNANCE (2009) 45–52, https://www.cambridge.org/core/books/abs/states-and-regions-in-the-european-union/federal-republic-of-germany-as-a-model-of-cooperative-federalism/75F040151381E3AD6798F43AB5D06AB4.

5.1 Defined grounds for supersession and time-bound inquiry by an independent review panel

The text of Clause 47 may be altered to specify the grounds for supersession to objectively distinct criteria. For instance, a sustained inability to meet quorum, failure to perform mandatory statutory functions within prescribed timelines, or a recorded finding of serious financial or administrative irregularity may warrant supersession by the Central Government. A sub-clause specifying a time-bound inquiry by an independent review panel (that includes State nominees) as a prerequisite for the initiation of supersession.

5.2 A 'compensation through participation mechanism' inspired by the German federalist model

A '*compensation through participation mechanism*'[97] may be introduced through this Bill. Anchored in Germany's *interlocking politics*, this ensures compensation for States proportionate to the extent to which the states give away their discretionary power for policymaking to the central government. In the Indian legal and political context, it may help reduce unilateral central encroachment into higher education policy. Still, it may lead to intergovernmental bodies slowing down urgent executions, an increase in bargaining and politicisation, and accountability diffusion if roles are not clearly defined.

5.3 Ensuring adequate State participation and representation

This Bill must incorporate consultative or concurrent participation of States where the affected institutions fall predominantly within State jurisdiction. Whereas, it can be ensured that the regulatory process does not hinder the matters of urgency by allowing temporary measures subject to short, mandatory *post facto* State consultation and parliamentary ratification. Bargaining and politicisation can be limited by confining participation to specified subjects, requiring recorded reasons, and separating consultation from execution through defined and distinct roles of the States and the Centre.

5.4 A statutory presumption in favour of the State's Administrative competence

Regulatory pre-emption in a concurrent field cannot be discerned through a "rigid formula" rule.[98] The VBSA Bill should expressly articulate the limits and purposes of central intervention beyond the mere assertion of uniform standards. Where the Bill does not clearly dismiss a State's regulatory power, it ought to incorporate interpretive guidance requiring regulatory authorities to

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[97] *Id*.

[98] Adam Babich, *The Supremacy Clause, Cooperative Federalism, and the Full Federal Regulatory Purpose,* ADMIN. LAW REV. (2012), https://www.administrativelawreview.org/wp- content/uploads/2014/04/The-Supremacy-Clause-Cooperative-Federalism-adn-the-Full-Federal-Regulatory-Purpose.pdf.

act consistently with the Act's stated goals of autonomy, academic diversity, and cooperative implementation.

This could be executed by initially presuming in favour of State regulatory competence in matters of administration and implementation, subject only to clearly defined and reviewable departures where national academic objectives would otherwise be defeated. Such an approach would align central coordination with the broader regulatory purpose of the Bill while reducing uncertainty over the extent of pre-emption and preventing the routine displacement of State law in the absence of demonstrable conflict.

5.5 Equity must be built into the definition of 'quality'

India's higher education ecosystem has always faced equity as an issue. "Inclusive growth" must be treated as a system that brings forth equitable opportunity. The participation in the higher education system remains largely stratified by gender, caste, religion, economic background, and household expenditure.[99] It is not a lack of calibre that produces literacy inequality amongst communities; it is the unequal and unfair education system that reproduces social inequality due to a lack of opportunities.

Instead of relegating regulation to unification, the regulatory designs of this Bill must build equity in the definition of "quality" or "standards" instead of treating equity as a secondary social policy.

The VBSA Bill may incorporate mandatory institutional equity units, periodic disclosure of access/retention outcomes for disadvantaged groups, and accreditation criteria that measure inclusion, alongside academic outputs partially borrowed from the UGC Equity Rules 2026.

It must be noted that the current dispute regarding UGC's "Promotion of Equity" regulations (including the Supreme Court's decision to keep the 2026 regulations in abeyance on the ground that key provisions were prima facie vague and misuse-prone) is a caution against drafting equity norms as open-ended commands without determinate safeguards.[100] Therefore, the VBSA Bill can draw merely substantive value for institutionalised grievance redressal and ensure anti-discriminatory practices on a federal and social level.

5.6 Testing manifest arbitrariness

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[99] Jhandalaya B. G. Tilak, *How Inclusive is Higher Education in India?* SOCIAL CHANGE (2015), https://journals.sagepub.com/doi/abs/10.1177/0049085715574178.

[100] '*Capable of misuse': Supreme Court stays UGC equity rules*, SCROLL (January 29, 2026), https://scroll.in/latest/1090339/capable-of-misuse-sc-stays-ugc-equity-rules.

Justice D.Y. Chandrachud in ***Anjum Kadari & Anr. v. Union of India & Ors.***[101] empowered the State Government to impose regulations relying upon ***Sidhrajbhai Sabbai v. State of Gujarat***[102] and ***P A Inamdar v. State of Maharashtra***[103] to bring forth that such regulations "must satisfy the following tests[104]:

(i) It must be reasonable and rational;

(ii) It must be conducive to making the institution an effective vehicle of education for the minority community or other persons who resort to it; and

(iii) It must be directed towards maintaining the excellence of education and efficiency of administration to prevent it from falling standards.

(iv) To determine the issue of the reasonableness of a regulation, the court has to determine whether the regulation is calculated to subserve or will in effect subserve the purpose of recognition or affiliation."

It must be clarified that the tests stated above were not meant to evaluate the VBSA Bill, which is a centralised Bill. However, applying these tests to a broader conspectus and in consideration of the welfare of HEIs and their enrolled students, it can be discerned that:

(i) **Reasonability and rationality**: The objective of harmonising academic standards is rational, but several instruments are drafted in ways that weaken reasonableness. The excessive central control through "policy" directions with finality in the Central Government, and supersession powers triggered by indeterminate terms ("unable to discharge," "persistent default"), make the consequences unpredictable and difficult to justify as proportionate.

(ii) **Conducive to institutions as effective vehicles of education**: This Bill makes autonomy contingent on accreditation. It can support institutional performance, yet it risks impairing effectiveness where compliance protocols are imposed without capacity-sensitive transition support, especially for state-funded universities and colleges that carry the burden of financially regulating large groups of enrolled students.

(iii) **Excellence and administrative efficiency:** A unified legislation may reduce overlap, but efficiency is undermined if the regulator is not functionally insulated from executive

[101] Anjum Kadari & Anr. v. Union of India & Ors, (2025) 5 SCC 53.
[102] Sidhrajbhai Sabbai v. State of Gujarat, 1962 SCC OnLine SC 150.
[103] P A Inamdar v. State of Maharashtra, (2005) 6 SCC 537.
[104] *Id.* at ¶ 60.

direction, since shifting "policy" signals and the possibility of supersession can destabilise long-term academic planning and governance.

(iv) **Subserving recognition or affiliation in effect**: To the extent that consequences like permission to operate, degree-granting conditions, penalties flow from accreditation and standards decisions, the Bill must ensure these powers demonstrably improve educational quality rather than operate as compliance sanctions detached from the pedagogic reality of central overreach in regulation of HEIs.

Therefore, this Bill must separate "policy" from technical regulation by limiting binding policy directions to precisely defined matters. It must mandate phased compliance, support during the transitional phase, and separate expectations and assistance for financially constrained institutions.

5.7 Incorporating an explanation in Clause 53 to address the obscurity around the scope of "difficulties"

Clause 53, as presently drafted, confers a broad power to "remove difficulties" without clarifying the nature or limits of such difficulties, creating avoidable ambiguity in a provision that already enables executive intervention through delegated action.

This obscurity can be addressed by incorporating an Explanation that expressly confines the scope of the power to the correction of *procedural, transitional, or administrative impediments* arising in the initial implementation of the Act, while explicitly barring its use to alter substantive rights, duties, regulatory standards, or institutional entitlements. Such an Explanation would be consistent with the Supreme Court's settled jurisprudence, reaffirmed in ***Manish Kumar v. Union of India***[105], which draws upon ***S. Sundaram Pillai***[106] and allied cases to hold that an Explanation must clarify ambiguity and advance the object of the Act, but cannot widen the ambit of the main provision or effect substantive change.

In practical terms, the Explanation to Clause 53 should therefore

i. Specify that "difficulties" are limited to procedural bottlenecks in constituting bodies, sequencing functions, or aligning existing regulations during the transition period;
ii. Categorically prohibit the use of orders under Clause 53 to modify standards, enforcement powers, or institutional autonomy; and

[105] Manish Kumar v. Union of India, (2021) 5 SCC 1 ¶ 294.
[106] S. Sundaram Pillai v. Pattabiraman, (1985) 1 SCC 591.

iii. Subject all such orders to a time-bound parliamentary affirmative resolution procedure.

This approach preserves the limited flexibility necessary for implementing a complex regulatory statute such as the VBSA Bill while ensuring that the power to remove difficulties remains interpretive and facilitative, rather than legislative in effect, thereby aligning Clause 53 with the rule of law.

5.8 Inclusion of a 'Student Impact Assessment'

Owing to its lack of defined procedures and enforceable compliance mechanisms, Clause 36, despite its protective intent, risks remaining a dead letter in the VBSA Bill. To address this issue, before *any* penalty that materially affects institutional functioning (for instance, suspension of intake, programme withdrawal, derecognition, financial penalties above a fixed threshold), the Regulatory Council must conduct a '**Student Impact Assessment' (hereinafter referred to as the "SIA").**

It must be specified that it is "high impact enforcement actions" that must initiate the SIA. The "high impact enforcement actions" must be distinctly defined to include instances wherein the State or Central Government

i. Withhold grants allotted to the specific HEI.[107]
ii. Impose a penalty on an HEI greater than seventy-five lakhs.
iii. An absolute suspension of the rights of HEI to confer degrees.
iv. Revocation of affiliation of an HEI to a University.
v. Closure or winding up of HEI.

The definition of "high impact enforcement" must expressly exclude routine compliance procedures.

The following criteria must be assessed by way of the SIA:

1. Number of affected students.
2. Level of Education, for instance, whether the students are in the penultimate year of study or research scholars, etc.
3. Financial Impact on the students based on the fees paid, housing, loans, etc.

[107] *supra* note 12, at cl.

4. Academic disruption, causing delayed graduation or any other factor considered necessary.

No enforcement action that materially impairs institutional functioning should take effect unless and until a *special order* is issued. It would specify the transitional mechanism and financial remedies, such as fee refunds and escrow release, etc. In addition to this, it would reorder the enforcement process so that student protection operates as a binding precondition rather than a collateral consideration.